

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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ALVIN BALDUS, CINDY BARBERA, CARLENE  
BECHEN, RONALD BIENDSEIL, RON BOONE, VERA  
BOONE, ELVIRA BUMPUS, EVANJELINA  
CLEEREMAN, SHEILA COCHRAN, LESLIE W.  
DAVIS III, BRETT ECKSTEIN, MAXINE HOUGH,  
CLARENCE JOHNSON, RICHARD KRESBACH,  
RICHARD LANGE, GLADYS MANZANET,  
ROCHELLE MOORE, AMY RISSEEUW, JUDY  
ROBSON, GLORIA ROGERS, JEANNE SANCHEZ-  
BELL, CECELIA SCHLIEPP, TRAVIS THYSSEN,

Plaintiffs,

TAMMY BALDWIN, GWENDOLYNNE MOORE  
and RONALD KIND,

Intervenor-Plaintiffs,

v.

Members of the Wisconsin Government Accountability  
Board, each only in his official capacity:  
MICHAEL BRENNAN, DAVID DEININGER, GERALD  
NICHOL, THOMAS CANE, THOMAS BARLAND, and  
TIMOTHY VOCKE, and KEVIN KENNEDY, Director  
and General Counsel for the Wisconsin Government  
Accountability Board,

Defendants,

F. JAMES SENSENBRENNER, JR., THOMAS E. PETRI,  
PAUL D. RYAN, JR., REID J. RIBBLE,  
and SEAN P. DUFFY,

Intervenor-Defendants.

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**DECLARATION OF DOUGLAS M. POLAND IN SUPPORT OF  
PLAINTIFFS' MOTION FOR AN EMERGENCY HEARING AND  
ORDER TO SHOW CAUSE AND FOR HEARING ON  
DEFENDANTS' PROTECTIVE ORDER MOTION**

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Civil Action  
File No. 11-CV-562

Three-judge panel  
28 U.S.C. § 2284

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VOCES DE LA FRONTERA, INC., RAMIRO VARA,  
OLGA WARA, JOSE PEREZ, and ERICA RAMIREZ,

Plaintiffs,

v.

Case No. 11-CV-1011  
JPS-DPW-RMD

Members of the Wisconsin Government Accountability  
Board, each only in his official capacity:  
MICHAEL BRENNAN, DAVID DEININGER, GERALD  
NICHOL, THOMAS CANE, THOMAS BARLAND, and  
TIMOTHY VOCKE, and KEVIN KENNEDY, Director  
and General Counsel for the Wisconsin Government  
Accountability Board,

Defendants.

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I, Douglas M. Poland, declare, under penalty of perjury and pursuant to 28 U.S.C.

§ 1746, that the following is true and correct:

1. I am an attorney with the law firm of Godfrey & Kahn, S.C., and I am admitted to practice in the State of Wisconsin and in the U.S. District Court for the Eastern District of Wisconsin. I represent plaintiffs in the above-captioned matter. I make this declaration based on my personal knowledge and in support of Plaintiffs' Motion for an Emergency Hearing and Order to Show Cause—to Defendants to Provide Correct Data and Explain Failure to Disclose—and for Hearing on Defendants' Protective Order Motion.

2. Attached as **Exhibit 1** to this declaration is a true and correct copy of a January 13, 2012 memorandum from Kevin J. Kennedy, Director and General Counsel of the Government Accountability Board ("GAB"), regarding "Redistricting Anomalies—Municipal and Ward Boundaries." This memorandum was posted on the website of the Milwaukee Journal Sentinel on January 13, along with an article titled, "Redistricting problem means thousands are

listed in wrong district.” A true and correct copy of that article, retrieved from that newspaper’s website on January 16, is attached as **Exhibit 2** to this declaration.

3. Attached as **Exhibit 3** to this declaration is a true and correct copy of a November 10, 2011 memorandum from Sarah Whitt and Shane Falk of the GAB regarding “Census Blocks Conflicting with Municipal Boundaries.”

4. Attached as **Exhibit 4** to this declaration is a true and correct copy of an article with the headline, “Errors in redistricting process could affect thousands of voters,” which appeared in the January 11, 2012 edition of the Wisconsin State Journal, and which was retrieved from that newspaper’s website on January 15, 2012.

5. Attached as **Exhibit 5** to this declaration is a true and correct copy of an article with the headline, “Glitch puts some Wisconsin voters in Africa,” which appeared in the January 11, 2012 edition of the Journal Sentinel, and which was retrieved from that newspaper’s website on January 15, 2012.

6. Attached as **Exhibit 6** to this declaration is a true and correct copy of Plaintiffs’ Second Supplemental Rule 26(a) disclosures, dated January 11, 2012.

7. Attached as **Exhibit 7** to this declaration is a true and correct copy of the initial disclosures that defendants served on November 16, 2011.

8. Attached as **Exhibit 8** to this declaration is a true and correct copy of the amended initial disclosures that defendants served on November 25, 2011.

9. Attached as **Exhibit 9** to this declaration is a true and correct copy of a letter from Rebecca Kathryn Mason, counsel for the plaintiffs, hand-delivered to Assistant Attorney General Maria S. Lazar on November 29, 2011.

10. Attached as **Exhibit 10** to this declaration is a true and correct copy of a letter from Ms. Mason to Patrick Hodan, counsel for the defendants, delivered by e-mail on December 5, 2011.

11. Attached as **Exhibit 11** to this declaration is a true and correct copy of Plaintiffs' First Set of Interrogatories and First Request for Production of Documents, served on defendants on November 22, 2011.

12. Attached as **Exhibit 12** to this declaration is a true and correct copy of Defendants' Answers to Plaintiffs' First Set of Interrogatories and First Request for Production of Documents, dated December 12, 2011. The documents produced by the defendants were delivered to the plaintiffs on December 12, 2011. Those documents consisted of a 339-page transcript of a July 13, 2011 legislative hearing on the Wisconsin Redistricting Plan and three oversized maps of Acts 43 and 44, as well as a "thumb drive" containing census files from the Legislative Technology Services Bureau, the Statewide 10 folder, and ward lines; no Microsoft Word or .pdf documents appeared on the "thumb drive." The November 10, 2011 memorandum attached as Exhibit 3 to this declaration was not among the documents produced at that time, and to date has not been produced by the defendants.

13. Attached as **Exhibit 13** to this declaration is a true and correct copy of the second set of discovery requests that the plaintiffs served on the defendants on January 12, 2012, which included requests related to the anomalies in the redistricting data recently reported in the news media.

14. Attached as **Exhibit 14** to this declaration is a true and correct copy of a letter that I sent to Ms. Lazar and Mr. Hodan via e-mail on January 14, 2012.

15. On January 16, 2012, at 2:00 p.m., I and Dustin Brown, another attorney at Godfrey & Kahn, discussed the issues raised in my January 14 letter in a telephone call with

defendants' counsel Ms. Lazar, Mr. Hodan, and Daniel Kelly. In this call, Mr. Kelly articulated the defendants' view that the anomalies identified by the GAB are not relevant to this litigation, because courts adopt the fiction that the census data is accurate. They further explained that they would move the Court for a protective order if the plaintiffs did not withdraw the discovery requests that relate to the anomalies. I declined their invitation to withdraw the discovery requests, because the plaintiffs disagree as to the relevance of this issue.

16. The defendants filed their motion for protective order (Dkt. 107) within an hour of our phone call.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 16, 2012.

*s/ Douglas M. Poland*

Douglas M. Poland

State Bar No. 1055189

Godfrey & Kahn, S.C.

One East Main Street, Suite 500

P.O. Box 2719

Madison, WI 53701-2719

608-257-3911

dpoland@gklaw.com

7352028\_1

# **EXHIBIT 1**

# State of Wisconsin \ Government Accountability Board

212 East Washington Avenue, 3<sup>rd</sup> Floor  
Post Office Box 7984  
Madison, WI 53707-7984  
Voice (608) 266-8005  
Fax (608) 267-0500  
E-mail: [gab@wisconsin.gov](mailto:gab@wisconsin.gov)  
<http://gab.wi.gov>



JUDGE DAVID G. DEININGER  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

## MEMORANDUM

**DATE:** January 13, 2012

**TO:** Wisconsin Municipal Clerks  
City of Milwaukee Election Commission  
Wisconsin County Clerks  
Milwaukee County Election Commission

**FROM:** Kevin J. Kennedy  
Director and General Counsel  
Government Accountability Board

Nathaniel E. Robinson  
Elections Division Administrator  
Government Accountability Board

**SUBJECT:** Redistricting Anomalies—Municipal and Ward Boundaries

### Introduction

It is critical to have the most accurate municipal and voting district boundary lines possible in SVRS, in order to assure voters are assigned to correct districts, avoid voter and election official confusion, and to have a manageable workflow for clerks during this redistricting process. Through the conversations we have had with local election officials, as well as state and local geographic information specialists, municipal and ward boundaries anomalies have been brought to our attention that directly impact the G.A.B. Redistricting Initiative. This Memorandum identifies these anomalies, provides some examples and a detailed analysis, and provides guidance to help reduce the consequential impact of the anomalies. If you discover that your jurisdiction is affected by these anomalies and you have not already contacted the G.A.B., please be sure to immediately raise it to the attention of Elections Supervisor, Ross Hein.

In preparation to implement the voting districts established after the 2010 Federal Decennial Census in SVRS for the December 1, 2012 release, some geographic information specialists and clerks had contacted the G.A.B. with questions regarding municipal and ward boundaries anomalies resulting from differences between Census data and actual municipal and ward boundaries. On November 18, 2011 and in light of these known anomalies, the G.A.B. provided all clerks with "Redistricting Update #5: Municipal and Ward Boundaries." At that time, the G.A.B. advised you as follows:

### **Census Data Accuracy**

Some geographic information specialists and clerks have contacted G.A.B. with questions regarding anomalies between census data and the actual municipal boundaries and geography. According to the Census Bureau, the Census geographic data is accurate to approximately 50 meters. 50 meters can be enough for a house to potentially appear in the wrong district, so to address this, G.A.B. is allowing

counties to provide us with wards from their county GIS systems that have been adjusted to reflect actual physical municipal boundaries and geography.

### **Using County GIS Data**

The data from the county GIS systems tends to be highly accurate, and in some cases at a survey level of accuracy. So far, approximately 15 counties have provided us with adjusted wards. For those counties, we will use the adjusted wards instead of the census-based wards we receive from WISE-LR. Using the adjusted wards also ensures that all other districts that are built upon those wards (aldermanic, county supervisory, State Assembly, State Senate, and Congressional) will also follow the correct municipal boundaries. We will continue to implement corrected wards as counties are able to provide them to us. If we get corrected wards from a county after December 1, we will work with the impacted clerks so you know if your boundary lines will be changing.

### **Correcting Exceptions**

For counties that were not able to provide us with adjusted wards from their county GIS systems, clerks may see some discrepancies with municipal boundaries in SVRS on December 1 when the new districts become available. G.A.B. is creating a special exception report specifically to identify any registered voters who appear in the incorrect municipality after we implement the new district maps. Clerks will be given instructions and training on how to correct any registered voters who are inadvertently placed in the wrong municipality. Future guidance will also provide instructions as to any new voter registration issues that may arise.

Approximately 20 counties have now taken advantage of the G.A.B.'s direction and coordinated the loading of their more accurate municipal and ward boundaries from their county GIS systems into SVRS. This resulted in a dramatic reduction of exceptions that had to be corrected by the municipalities within those involved counties. This Memorandum provides a more detailed explanation of the anomalies and reaffirm G.A.B.'s direction from November 18, 2011 regarding the use of county GIS municipal and ward boundaries in SVRS to minimize exceptions requiring further action by clerks.

## **REDISTRICTING ANOMALIES: MUNICIPAL AND WARD BOUNDARIES**

### **Background**

Every ten years, as part of the decennial Census, the U.S. Census Bureau collects demographic and geographic information from across the country and compiles the data for use by states, counties, and municipalities to draw new district lines. The census data is broken down by census blocks, which provide the basic building block for electoral districts. Census blocks contain population and demographic information necessary to draw fair and balanced districts. The boundaries for the census blocks frequently follow administrative boundaries such as municipal and school boundaries, and physical geographic features such as roads and waterways. Census blocks are used in Wisconsin to build wards. Sec. 5.15(1)(b), Wis. Stats.; 2011 Act 39, Sec. 2. These wards are then combined to form aldermanic, county supervisory, State Assembly, State Senate, and Congressional districts. 2011 Act 39, Secs. 3, 9, 11, 13, 15, 23; 2011 Act 43, Sec. 6; 2011 Act 44, Sec. 2.

The geographic information that results from the census, including census blocks, roads and waterways, municipal and school district boundaries, and other geographic data sets maintained by Census are

provided to states in the form of Topologically Integrated Geographic Encoding and Referencing (TIGER) map files. According to the US Census website ([www.census.gov](http://www.census.gov)), the boundaries shown in the TIGER map files are for Census Bureau statistical data collection and tabulation purposes only; their depiction and designation for statistical purposes does not constitute a determination of jurisdictional authority or rights of ownership or entitlement.

In Wisconsin, the Census TIGER map files and demographic information are loaded into a tool called WISE-LR, which is administered by the Legislative Technology Services Bureau (LTSB). WISE-LR is then used by the Wisconsin State Legislature, as well as counties and municipalities, to create new districts.

### **Accuracy of TIGER and WISE-LR Maps**

After the 2000 Census redistricting effort, there was widespread complaints that the TIGER data from the 2000 census was inaccurate in both geography and administrative boundaries. Specifically, when the TIGER data was overlaid with actual municipal boundaries, road lines, and bodies of water, the TIGER data placed those features in the wrong place. This caused exceptions, such as voters who appeared on the legislative maps to be in one district, but actually live in a different district. This also became apparent during the 2011 recall elections where addresses that were challenged using the legislative maps were then overturned by G.A.B. based on the more accurate information in Statewide Voter Registration System (SVRS).

From information gathered from localities thus far related to the 2010 redistricting, there appears to be consensus that the TIGER data from the 2010 census was more accurate in terms of geography (roads, waterways) than it was in 2000. However, it still contains substantial inaccuracies with administrative boundaries, specifically municipal boundaries and school district boundaries. Municipal boundary inaccuracies are usually due to either projection issues (the correct boundaries appearing in the wrong place), or annexations that were not included in the TIGER 2010 data. According to the 2010 Census TIGER/Line® Shapefiles Technical Documentation, the positional accuracy of the TIGER 2010 data meets a standard of approximately +/- 50 meters (+/- 167 feet). This appears to have been achieved in some cases, but there are other cases where the data is off by more than 50 meters. Even if lines are within 50 meters, that margin of error allows for multiple houses to be placed in the wrong district all along the boundary line. This becomes problematic particularly for municipal boundaries, because many voters can be affected if the Census municipal boundary is 50 meters or more away from its actual location.

The LTSB loaded the TIGER maps into WISE-LR, which was then used by the Wisconsin State Legislature, as well as counties and municipalities, to create new district and ward maps. In addition to the municipal and school district boundary inaccuracies inherited from the TIGER maps, the district and ward maps created in WISE-LR are also subject to inaccuracies due to projection issues or the positional accuracy limitations of the TIGER and WISE-LR maps. The G.A.B. Redistricting Initiative has implemented a SVRS update that includes the WISE-LR GIS shape files (maps,) but also specific geo-codes for each registered elector. The geo-code of a registered elector determines in which ward and districts the elector is assigned. Use of geo-codes results in a very high location accuracy for each registered elector; however, this high location accuracy further enhances the identification of the positional accuracy limitations of the TIGER and WISE-LR maps. This becomes problematic for similar reasons as the problems caused by inaccurate municipal boundaries because many voters can be affected if the district or ward maps are 50 meters or more away from its actual location. For most of the state, SVRS contains the GIS shape files of the district and ward maps exclusively from the WISE-LR maps. For about 1/3 of the state, SVRS contains GIS shape files from County or municipal GIS personnel, which are more precise than the WISE-LR maps and can also be loaded into SVRS.

### **Reports and Analyses of Municipal and Ward Boundaries Anomalies**

Several counties maintain electoral districts such as wards and county supervisory districts in their local Geographic Information Systems (GIS) systems. The local GIS systems tend to be highly accurate, based on survey data for the parcels of land in their county. Many of these counties took the census block based wards and county supervisory districts, and loaded them into their local GIS systems. They then corrected the ward lines to reflect the actual physical municipal boundaries, local geography, and parcel lines. These corrected districts no longer strictly follow the census blocks from the TIGER and WISE-LR maps, but instead follow the more accurate geography and administrative boundaries that actually exist for that county. This is similar to what local clerks have done via their address ranges in SVRS in the past. The address ranges in SVRS reflect the actual municipal boundaries, and are not based strictly on census blocks from the TIGER and WISE-LR maps.

Based on initial analysis, Rock County (which at the time relied exclusively on GIS shape files of the district and ward maps from WISE-LR) reported identifying approximately 200 addresses that were placed in the wrong municipality based on the TIGER 2010 data. Rock County provided a specific example of some corrections to municipal boundaries that directly conflict with census blocks and the specific statutory language of Acts 43 and 44, affecting State Assembly, State Senate, and Congressional districts. In this case, the municipal boundary between the Town of Harmony and the City of Janesville was approximately 0.1 mile off (528 feet) in the census data. This caused census blocks containing 9 houses that are in the City of Janesville to be incorrectly placed in the Town of Harmony. In addition, the same error caused census blocks containing one house or farm in the Town of Harmony to be incorrectly placed in the City of Janesville. Obviously, this situation also creates the likelihood of a shift in the population for the City of Janesville and Town of Harmony under Acts 43 and 44, which specifically attributed certain census blocks to incorrect municipalities. Please see the attached map for a visual representation of the discrepancy.

This situation is repeated in many other counties, if not all counties. In fact, the LTSB conducted a limited analysis of 19 counties comparing the circumference of municipal boundaries from the WISE-LR maps to the circumference of municipal boundaries in county shape file maps as they relate to legislative and congressional districts and concluded that 4,204 voters were affected by incorrect municipal boundaries, 1,071 of which likely change Assembly districts and 66 of which likely change Congressional districts.

The G.A.B. conducted a more comprehensive analysis of 16 counties to include district lines that bisect a municipality and also district boundaries for voting districts including Senate districts and those below Assembly districts. Based on initial analysis by the G.A.B. of Dane County, a comparison of the positional accuracy of the TIGER and WISE-LR maps with County GIS shape files for district and ward maps produced the following results:

1. 1,266 registered voters were placed in the wrong municipality in the WISE-LR maps.
2. 1,601 registered voters were placed in the wrong Assembly district in the WISE-LR maps.
3. 902 registered voters were placed in the wrong Senate district in the WISE-LR maps.
4. 12 registered voters were placed in the wrong Congressional district in the WISE-LR maps.
5. 6,737 registered voters were placed in the wrong wards in the WISE-LR maps. (This figure excludes any anomalies for the City of Fitchburg Wards 6-12 and Village of Black Earth Wards 1-2, which were not part of the analysis.)

### **Status of Municipal and Ward Boundaries Anomalies**

The G.A.B. analysis, and as supported by the limited LTSB analysis, has identified specific voters that were placed in incorrect municipalities or voting districts as a result of the positional accuracy

limitations of the TIGER and WISE-LR maps. The G.A.B. has worked closely with County GIS personnel from approximately 20 counties to receive their more accurate County GIS shape files to load into SVRS, which will correct a large portion of these anomalies. However, this currently addresses the issue for approximately 1/3 of the State, leaving 2/3 of the State in exclusive reliance upon the less accurate TIGER and WISE-LR maps for districts and wards. For that 2/3 of the State that relies exclusively on the less accurate TIGER and WISE-LR maps and to ensure that voters appear on the proper poll books, the affected clerks will have to manually assign voting district combinations to any registered voter's address that appears on the municipal or ward boundaries exception reports. This manual correction does not impact the district and ward lines, which means that it will be difficult to assign an applicant wishing to register with the Clerk or at the polls to the proper voting district combination. Near these affected district and ward boundaries, if the applicant were to enter his or her address in VPA, it is likely that the applicant's voting districts and polling location would be misidentified and result in additional confusion. While the Clerks will have a SVRS boundary management tool in the future which can correct all affected residences rather than just those with registered voters, such a tool will not be available until after the Spring Election. The G.A.B. continues to work toward a solution to help resolve this issue for elections occurring through the Spring Election in April 2012.

#### **Districts Created by Acts 43 and 44 and Conflict with Act 39**

Because Acts 43 and 44 were passed creating the new State Senate, Assembly, and Congressional districts before municipalities had finished creating their local wards, these districts were built using census blocks. The text of these Acts, now in statute, specifies the district boundaries according to individual census blocks. For the City of Janesville/Town of Harmony example, the statute clearly states that the given Assembly district includes the Town of Harmony census blocks 3004 and 3059. This is problematic for practical purposes because those census blocks do not reflect the correct municipal boundaries and the results of implementing these incorrect boundaries in SVRS would place voters on the wrong poll books for each election. In fact, the practical impacts of municipal and ward boundary anomalies have already been experienced by Rock County, where the County Clerk has reported publicly on the Clerk List-serve that she relied upon the WISE-LR district and ward maps in SVRS to her detriment. The Rock County Clerk initially struck signatures on two separate sets of nomination papers because SVRS identified those signers as being outside the relevant County Supervisory district. The Rock County Clerk actually disqualified two County Supervisor candidates as a result because she initially thought the candidates did not have enough valid signatures, but the G.A.B. believes that she later relied upon the County GIS shape files to rehabilitate the sufficient stricken signatures and grant ballot access to the two affected candidates.

After the G.A.B. and/or local clerks make these corrections, the districts in SVRS may not match Acts 43 and 44 precisely. In addition, these corrections also require splitting census blocks, which may conflict with Act 39's prohibition on splitting census blocks. Secs. 59.10(2)(a), 59.10(3)(b)1, 62.08(1), Wis. Stats.; 2011 Act 29, Secs. 13, 15, 23.

#### **G.A.B. Redistricting Initiative in SVRS**

To update SVRS with the new districts resulting from 2011 Acts 39, 43, and 44, the G.A.B. technical team has loaded the new census based wards, county supervisory districts, aldermanic districts (in some cases), State Assembly districts, State Senate districts, Congressional districts, and municipal boundaries from WISE-LR, into SVRS.

Due to the inaccuracies of the TIGER and WISE-LR data, some municipal and voting district boundary lines will appear in the wrong place in SVRS, which will cause some registered voters to be assigned to the wrong voting districts. This will ultimately result in some voters appearing on the wrong poll lists

and potentially receiving the wrong ballots. Clerks have been given exception reports that identify voters who may have been put in the wrong districts and the clerks were asked to correct them. Therefore, the more accurate the municipal and voting district boundary lines are in SVRS, the less manual work clerks need to perform and the more likely it is that voters appear on the correct poll list and receive the correct ballot. In addition, it is more likely ensure the accuracy of VPA for applicants and the public. Finally, it is more likely that Clerks and Election Inspectors will correctly identify voting districts for applicants.

Phase 1 of the SVRS updates that are part of the G.A.B. Redistricting Initiative were available to clerks on December 1<sup>st</sup>. In Phase 1, clerks were able to fix addresses that were put in the wrong place on the map. Phase 2 of the SVRS updates that are part of the G.A.B. Redistricting Initiative were available to clerks on January 9, 2012. Clerks are now able to override the voting district assignment, if it is not assigned correctly (due to municipal or voting district boundary line issues). Clerks will not be able to move the boundary lines themselves. If a municipal or voting district boundary line is in the wrong place in SVRS, a clerk should work with the G.A.B. technical staff to determine whether there is a feasible way to correct the boundary. The most efficient way to correct this municipal and ward boundaries exceptions is with local GIS shape files from County or Municipal GIS personnel. The ability to correct municipal and voting district boundary lines in SVRS will not be available to clerks after the Spring 2012 elections.

As a result of these issues, the G.A.B. implemented an action plan on November 10, 2011 to address the educational, administrative, and practical problems for the Spring 2012 elections, particularly if clerks have not completed correcting their exceptions prior to printing poll books. For example, many voters will show up to vote, only to find that they are not on the poll list. When attempting to register voters, an election official may be confused and register them in the wrong location or send them to another incorrect location to register. If a voter is not on the poll list (because they appeared on the wrong poll list) they may be asked to re-register at the polls. Many polling places use street range lists printed from SVRS to determine to which polling place a voter should go. If the municipal or voting district boundary lines are inaccurate in SVRS, election workers will not have accurate reports at the polling place and could send voters from polling place to polling place. Finally, inaccuracies and confusion regarding correct voting locations are likely to lead to challenges to voter qualifications and disputes in any recount process.

#### **Use of Corrected Wards in SVRS**

Approximately 20 counties thus far have asked that we use their corrected municipal and/or ward boundaries in SVRS, rather than the WISE-LR boundaries to ensure that the lines are placed accurately and thus voters show up on the correct poll lists. Because wards are the building blocks for all the other representational districts, if we use the corrected wards, this also corrects the municipal boundaries, county supervisor, aldermanic, State Senate, State Assembly, and Congressional districts. It is not possible in all cases to maintain census block-based legislative districts simultaneously with corrected wards, as the voting district lines would conflict with each other.

Acts 43 and 44 define the State Senate, State Assembly, and Congressional districts at the census block level. The corrected municipal and ward boundaries deviate from the census blocks from WISE-LR, therefore using the corrected districts will result in less than strict compliance with the Acts. However, strict compliance with the Acts is impossible in practice. Using geo-coded addresses for registered electors (or applicants) has a significantly higher rate of positional accuracy than even the previous address-range-based SVRS voting districts. Using the more accurate local GIS shape files for districts and wards remedies the positional inaccuracies of WISE-LR and helps to ensure that each voter will receive the correct ballot. For example, residents of the City of Janesville cannot be given a Town of Harmony ballot simply because strict compliance with Acts 43 and 44, which were based on Census

data, define the districts using inaccurate municipal boundaries. At least one representative of the Legislative Reference Bureau has agreed that the specific intent of the Legislature cannot be determined for the municipal boundary exceptions, such as the City of Janesville/Town of Harmony example.

### **G.A.B. Action Plan**

It is critical to have the most accurate municipal and voting district boundary lines possible in SVRS, in order to assure voters are assigned to correct districts, avoid voter and election official confusion, and to have a manageable workflow for clerks. To reach that goal, G.A.B.'s November 10, 2011 action plan directed the technical team to use corrected districts from county GIS shape files wherever it was possible to do so. A more aggressive approach has now been implemented and the technical team will be obtaining additional county GIS shape files for voting district boundary lines. Regardless of when these corrections occur (pre-Spring 2012 election or after), it is likely that the final districts will not strictly match those prescribed by Acts 43 and 44 because census blocks were attributed to incorrect municipalities or voting districts.

For the municipal and ward boundaries anomalies, the G.A.B. has adopted the following action plan:

1. The G.A.B. will aggressively encourage county clerks to contact their GIS personnel to compile corrected ward boundary shape files to load in SVRS. Staff will work with county GIS personnel, or municipal GIS personnel if necessary, that are willing to provide corrected GIS shape files for ward boundaries, then load them in SVRS as soon as practical.
2. As part of the deployment of the G.A.B. Redistricting Initiative, Phase 2 SVRS updates, the G.A.B. will continue to work in a cooperative partnership with local clerks to review their boundary lines. Clerks should report any boundary line issues to the G.A.B. so they can be corrected by the technical team. Clerks should use the incident tracking website that has been in use since September 21, 2011:
  - A. Click on this link: <http://wisapps.wi.gov/sites/GAB/incident>
  - B. Click on "Create a Service Request" on the left-hand side of the page.
  - C. Enter your information into the form. The Service Request Title should be filled in with a general description of what you are entering, such as "redistricting municipal boundary issue". The Details should be filled in with your specific question or any other details you would like to provide. Fill in the remaining fields with your contact information.

Attachment: Rock County Municipal Boundary Exception Map (Janesville/Harmony)

cc: Shane W. Falk  
Staff Counsel  
Government Accountability Board

## **EXHIBIT 2**



## Redistricting problem means thousands are listed in wrong district

By Patrick Marley of the Journal Sentinel

Jan. 13, 2012 | [\(132\) Comments](#)

**Madison** - State election officials said in a memo Friday that they could not entirely follow a new law that sets legislative boundaries - meaning that some voters are not actually in the districts where lawmakers intended them to be.

The situation has arisen because lawmakers used inaccurate data to draw the maps, the memo said. That could create new headaches for the state as it fights a lawsuit that argues the new maps violate the U.S. Constitution and the federal Voting Rights Acts.

Every 10 years, states must draw new election maps to account for changes in population recorded by the U.S. Census Bureau. In Wisconsin, Republicans control the Legislature and governor's office, and they were able to approve maps last summer that would benefit them in elections starting in November 2012.

But the Government Accountability Board, which runs state elections, said in a memo Friday that lawmakers had relied on census data that included errors when lawmakers drew the maps. State and local officials are in the process of correcting that data, but the problem means "districts will result in less than strict compliance" with the law that established the maps, the memo said.

"However, strict compliance with the (law) is impossible in practice," said the memo by Kevin Kennedy, the board's director, and Nat Robinson, the board's elections administrator.

For example, lawmakers used census maps that were off by 0.1 mile in part of Rock County, making it appear that nine houses in Janesville were instead in the Town of Harmony. Likewise, a Town of Harmony house incorrectly appeared to be in Janesville in the data the Legislature used.

That creates a problem because Janesville residents cannot be given a Town of Harmony ballot, the memo noted.

"This situation is repeated in many other counties, if not all counties," the memo added.

Legislative technology workers analyzed 19 counties and found that more than 4,000 voters were shown in the wrong municipality, including more than 1,000 of who would likely have to be moved into a new Assembly district.

Clerks are now fixing information in the state's voter database so that voters are assigned to the correct wards. But the memo said those registering to vote in clerks' offices or at the polls may not be placed in the proper districts. Also, some voters who look up their polling places on a state website may be

directed to the wrong location, the memo said.

If the problem is not corrected, "many voters will show up to vote, only to find that they are not on the poll list," the memo said. "When attempting to register voters, an election official may be confused and register them in the wrong location or send them to another incorrect location to register."

Election officials are trying to address the problems quickly because the spring primary is Feb. 21.

In past decades, lawmakers waited for local officials to draw their lines and then built legislative maps along those ward lines. But this time, Republican lawmakers drew the state maps first, using U.S. census blocks.

The maps the U.S. Census Bureau provides are not entirely accurate, election officials are now saying. The maps sometimes show municipal lines 150 feet or more from where they actually are.

Republican lawmakers acted quickly on the maps at a time when they faced recall elections that could have cost them the Senate majority. Democrats made gains in those elections, but Republicans held onto the majority with a one-vote margin.

A group of Democrats sued the state last year over the new maps, and they could use the newly found errors to bolster their arguments. A federal three-judge panel has scheduled a trial in Milwaukee for February.

**Find this article at:**

[http://www.jsonline.com/news/statepolitics/redistricting-problem-means-some-will-vote-in-wrong-district-2j3q0dj-137323118.html#cb=f8cddb4fe04774&origin=http%3A%2F%2Fwww.jsonline.com%2F37c419178ce8f4&relation=parent.parent&transport=postmessage&type=resize&height=21&ackData\[id\]=1&width=130](http://www.jsonline.com/news/statepolitics/redistricting-problem-means-some-will-vote-in-wrong-district-2j3q0dj-137323118.html#cb=f8cddb4fe04774&origin=http%3A%2F%2Fwww.jsonline.com%2F37c419178ce8f4&relation=parent.parent&transport=postmessage&type=resize&height=21&ackData[id]=1&width=130)

☐ Check the box to include the list of links referenced in the article.

# **EXHIBIT 3**

# State of Wisconsin \ Government Accountability Board

212 East Washington Avenue, 3<sup>rd</sup> Floor  
Post Office Box 7984  
Madison, WI 53707-7984  
Voice (608) 266-8005  
Fax (608) 267-0500  
E-mail: [gab@wisconsin.gov](mailto:gab@wisconsin.gov)  
<http://gab.wi.gov>



JUDGE THOMAS H. BARLAND  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

---

## MEMORANDUM

**DATE:** November 10, 2011

**TO:** Nathaniel E. Robinson  
Elections Division Administrator  
Government Accountability Board

Ross Hein  
Elections Supervisor  
Government Accountability Board

**FROM:** Sarah Whitt  
SVRS Functional Lead  
Government Accountability Board

Shane Falk  
Staff Counsel  
Government Accountability Board

**SUBJECT:** Census Blocks Conflicting with Municipal Boundaries

Through the conversations we have been having with local election officials, as well as state and local geographic information specialists, new issues have been brought to our attention that directly impact the Government Accountability Board's (G.A.B.) Redistricting Initiative. Several practical implementation concerns have arisen regarding census blocks conflicting with actual municipal boundaries. This memo provides a summary of the issues and a plan of action that addresses the issues.

### Background

Every ten years, as part of the decennial Census, the U.S. Census Bureau collects demographic and geographic information from across the country and compiles the data for use by states, counties, and municipalities to draw new district lines. The census data is broken down by census blocks, which provide the basic building block for electoral districts. Census blocks contain population and demographic information necessary to draw fair and balanced districts. The boundaries for the census blocks frequently follow administrative boundaries such as municipal and school boundaries, and physical geographic features such as roads and waterways. Census blocks are used in Wisconsin to build wards. Sec. 5.15(1)(b), Wis. Stats.; 2011 Act 39, Sec. 2. These wards are then combined to form aldermanic, county supervisory, State Assembly, State Senate, and Congressional districts. 2011 Act 39, Secs. 3, 9, 11, 13, 15, 23; 2011 Act 43, Sec. 6; 2011 Act 44, Sec. 2.

The geographic information that results from the census, including census blocks, roads and waterways, municipal and school district boundaries, and other geographic data sets maintained by Census are provided to states in the form of Topologically Integrated Geographic Encoding and Referencing (TIGER) map files. According to the US Census website ([www.census.gov](http://www.census.gov)), the boundaries shown in the TIGER map files are for Census Bureau statistical data collection and tabulation purposes only; their depiction and designation for statistical purposes does not constitute a determination of jurisdictional authority or rights of ownership or entitlement.

In Wisconsin, the Census TIGER map files and demographic information are loaded into a tool called WISE-LR, which is administered by the Legislative Technology Services Bureau. WISE-LR is then used by Wisconsin counties and municipalities, as well as the State Legislature, to create new districts.

### **Accuracy of TIGER Data and Census Blocks**

After the 2000 Census redistricting effort, there was widespread complaints that the TIGER data from the 2000 census was inaccurate in both geography and administrative boundaries. Specifically, when the TIGER data was overlaid with actual municipal boundaries, road lines, and bodies of water, the TIGER data placed those features in the wrong place. This caused exceptions, such as voters who appeared on the legislative maps to be in one district, but actually live in a different district. This also became apparent during recall elections where addresses that were challenged using the legislative maps were then overturned by G.A.B. based on the information in Statewide Voter Registration System (SVRS).

From information gathered from localities thus far related to the 2010 redistricting, there appears to be consensus that the TIGER data from the 2010 census was more accurate in terms of geography (roads, waterways) than it was in 2000. However, it still contains substantial inaccuracies with administrative boundaries, specifically municipal boundaries and school district boundaries. Municipal boundary inaccuracies are usually due to either projection issues (the correct boundaries appearing in the wrong place), or annexations that were not included in the TIGER 2010 data. According to the 2010 Census TIGER/Line® Shapefiles Technical Documentation, the positional accuracy of the TIGER 2010 data meets a standard of approximately +/- 50 meters (+/- 167 feet). This appears to have been achieved in some cases, but there are other cases where the data is off by more than 50 meters. Even if lines are within 50 meters, that margin of error allows for multiple houses to be placed in the wrong district all along the boundary line. This becomes problematic particularly for municipal boundaries, because many voters can be affected if the Census municipal boundary is 50 meters or more away from its actual location.

### **Correcting Municipal Boundaries and Wards**

Several counties maintain electoral districts such as wards and county supervisory districts in their local Geographic Information Systems (GIS) systems. The local GIS systems tend to be highly accurate, based on survey data for the parcels of land in their county. Many of these counties took the census block based wards and county supervisory districts, and loaded them into their local GIS systems. They then corrected the ward lines to reflect the actual physical municipal boundaries, local geography, and parcel lines. These corrected districts no longer follow the census blocks, and instead follow the more accurate geography and administrative boundaries that actually exist for that county. This is similar to what local clerks have done via their address ranges in SVRS in the past. The address ranges in SVRS reflect the actual municipal boundaries, and are not based on census blocks.

Based on initial analysis, Rock County identified approximately 200 addresses that were placed in the wrong municipality based on the TIGER 2010 data. Rock County provided a specific example of some corrections to municipal boundaries that directly conflict with census blocks and the specific statutory language of Acts 43 and 44, affecting State Assembly, State Senate, and Congressional districts. In this case, the municipal boundary between the Town of Harmony and the City of Janesville was approximately 0.1 mile off (528 feet) in the census data. This caused census blocks containing 9 houses that are in the City of Janesville to be incorrectly placed in the Town of Harmony. In addition, the same error caused census blocks containing one house or farm in the Town of Harmony to be incorrectly placed in the City of Janesville. Based upon the incorrect municipal boundaries, the Town of Harmony even created a separate Ward for these 9 houses. In order to correct this by adjusting the municipal boundaries, Rock County would have to shift census blocks from the Town of Harmony to the City of Janesville (likely negating the need for that Ward in the Town of Harmony), ignoring one entire census block (3004 which is entirely in the wrong municipality) and splitting another census block (3095 which is half in Harmony and half in Janesville). Obviously, this situation also creates the likelihood of a shift in the population for the City of Janesville and Town of Harmony under Act 43, which specifically attributed certain census blocks to incorrect municipalities. Please see the attached map for a visual representation of the discrepancy. This situation is repeated in many other counties, if not all counties.

### **Districts Created by Acts 43 and 44 and Conflict with Act 39**

Because Acts 43 and 44 were passed creating the new State Senate, Assembly, and Congressional districts before municipalities had finished creating their local wards, these districts were built using census blocks. The text of these Acts, now in statute, specifies the district boundaries according to individual census blocks. For the City of Janesville/Town of Harmony example, the statute clearly states that the given Assembly district includes the Town of Harmony census blocks 3004 and 3059. This is problematic for enforcement purposes because those census blocks do not reflect the correct municipal boundaries and the results of implementing these incorrect boundaries in SVRS would place voters on the wrong poll books for each election. After local clerks make these corrections, the districts in SVRS would not match Acts 43 and 44 precisely. In addition, these corrections also require splitting census blocks, which may conflict with Act 39's prohibition on splitting census blocks. Secs. 59.10(2)(a), 59.10(3)(b)1, 62.08(1), Wis. Stats.; 2011 Act 29, Secs. 13, 15, 23.

### **G.A.B. Redistricting Initiative in SVRS**

To update SVRS with the new districts resulting from 2011 Acts 39, 43, and 44, the G.A.B. technical team is importing the new census based wards, county supervisory districts, aldermanic districts (in some cases), State Assembly districts, State Senate districts, Congressional districts, and municipal boundaries from the Legislature, into SVRS.

Due to the inaccuracies of the TIGER 2010 data, some boundary lines will appear in the wrong place in SVRS, which will cause some voters to be assigned to the wrong districts. This will ultimately result in some voters appearing on the wrong poll lists, and potentially being given the wrong ballots. Clerks will be given exception reports that will identify voters who may have been put in the wrong district, and they will be asked to correct them. Therefore, the more accurate the boundary lines are in SVRS, the less manual work clerks need to perform, and the more likely it is that voters appear on the correct poll list and receive the correct ballot. This manual correction process may also conflict with precise compliance with Acts 39, 43, and 44.

Phase 1 of the SVRS updates that are part of the G.A.B. Redistricting Initiative will be available to clerks on December 1<sup>st</sup>. In Phase 1, clerks will be able to fix addresses that get put in the wrong place on the map. They will also be able to override the district assignment, if it is not assigned correctly (due to boundary line issues). They will not be able to move the boundary lines themselves. If a boundary line is in the wrong place in SVRS, G.A.B. technical staff will need to correct it. The ability to correct boundary lines will be available to clerks in Phase 2 of the SVRS updates after the Spring 2012 elections.

As a result of these issues, the G.A.B. is implementing an action plan to address the educational, administrative, and practical problems for the Spring 2012 elections, particularly if clerks have not completed correcting their exceptions prior to printing poll books. For example, many voters will show up to vote, only to find that they are not on the poll list. When attempting to register voters, an election official may be confused and register them in the wrong location or send them to another incorrect location to register. If a voter is not on the poll list (because they appeared on the wrong poll list) they may be asked to re-register at the polls. Many polling places use street range lists printed from SVRS to determine to which polling place a voter should go. If the boundaries are inaccurate in SVRS, election workers will not have accurate reports at the polling place and could send voters from polling place to polling place. Finally, inaccuracies and confusion regarding correct voting locations are likely to lead to challenges to voter qualifications and disputes in any recount process.

### **Use of Corrected Wards in SVRS**

Approximately 21 counties thus far have asked that we use their corrected wards and/or municipal boundaries in SVRS, rather than the census-based lines we are getting from the Legislature, to ensure that the lines are placed accurately and thus voters show up on the correct poll lists. Because wards are the building blocks for all the other representational districts, if we use the corrected wards, this also corrects the municipal boundaries, county supervisor, aldermanic, State Senate, State Assembly, and Congressional districts. It is not possible to maintain census based legislative districts simultaneously with corrected wards, as the lines would conflict with each other.

Acts 43 and 44 define the State Senate, State Assembly, and Congressional districts at the census block level. The corrected wards and municipal boundaries deviate from the census blocks, therefore using the corrected districts could be interpreted as violating the statute. However, the statute must be violated in practice in order to give a voter the correct ballot. Residents of the City of Janesville cannot be given a Town of Harmony ballot simply because Acts 43 and 44, which were based on Census data, define the districts using inaccurate municipal boundaries.

### **Plan of Action**

It is critical to have the most accurate boundary lines possible in SVRS, in order to assure voters of their correct districts, avoid voter and election official confusion, and to have a manageable workflow for clerks. To reach that goal, the technical team will use the corrected districts wherever it is possible to do so. Regardless of when these corrections occur (pre-Spring 2012 election or after), it is likely that the final districts will not precisely match those prescribed by Acts 43 and 44 because census blocks were attributed to incorrect municipalities. The action plan is as follows:

1. Work with counties that are willing to provide corrected data. They can validate that municipal boundaries and all other ward based districts are corrected accurately when we implement the corrected wards.
2. As part of the deployment of the G.A.B. Redistricting Initiative, Phase 1 SVRS updates, work with local clerks to review their boundary lines BEFORE they start correcting individual voters who were placed in the wrong districts. Any boundary line issues should be reported to the G.A.B. Help Desk so they can be corrected by the technical team.
3. Consult with the Legislative Reference Bureau regarding the use of corrected wards and municipal boundaries in relationship to the State Senate, State Assembly, and Congressional districts which are defined in statute at the census block level.
4. Develop a strategy to address voter and election official confusion regarding misplaced voters in SVRS and to correct information for voters registering on Election Day. In addition, develop a plan to complete corrections following the Spring 2012 election, and to communicate with affected municipalities and counties regarding the May 15, 2012 adjustments.
5. Work with the Legislature to develop legislation that will make necessary technical corrections to Acts 39, 43, and 44 to correct districts to properly reflect actual municipal boundaries rather than being strictly based on census blocks. The simplest way to accomplish this is to make technical corrections to the Acts to refer to the actual wards that comprise the districts, rather than referring to the census blocks.

### **Conclusion**

The G.A.B. will use corrected wards and municipal boundaries at the earliest possible stage of implementing the new districts. The accuracy of the data in SVRS is a critical component to the integrity of the system, voters' confidence in the system, and to the overall administration of every

election. Clerks need effective tools in order to administer elections fairly and correctly, and voters must be assured that they will not be disenfranchised due to redistricting mapping inaccuracies. It is of the utmost importance that the most accurate data be used in SVRS at the earliest possible stage of implementation.

Thank you.

cc: Kevin Kennedy  
Director and General Counsel  
Government Accountability Board

# **EXHIBIT 4**



## Errors in redistricting process could affect thousands of voters

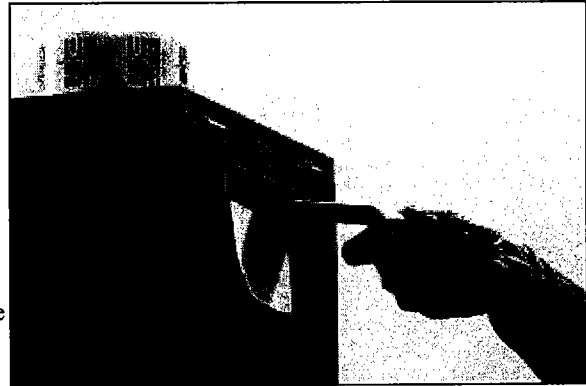
MARY SPICUZZA | Wisconsin State Journal | [mspicuzza@madison.com](mailto:mspicuzza@madison.com) | 608-252-6122 | Posted: Wednesday, January 11, 2012 8:15 am

Thousands of people could be affected by an apparent error in the state's controversial redistricting process that caused them to be listed in the wrong municipalities, school districts or wards, some election officials say.

Waukesha County Clerk Kathy Nickolaus said Tuesday that information for 14,447 people in her area needs to be corrected.

"And it's bigger than Waukesha," she said.

The problems could lead to confusion for people trying to understand changing boundary lines. It is unclear how many people statewide have been affected, and whether the error is a result of problems with the GOP-backed redistricting legislation — which passed the Legislature and was signed by Gov. Scott Walker this summer — or the implementation of it.



"Our job is to help clerks assign voters to the proper districts based on the redistricting law," said Reid Magney, a spokesman for GAB. "The legislation provides some challenges, and we are working with municipalities to assign voters to the proper districts."

Magney said he could not comment beyond that because of redistricting litigation.

A GAB update from Nov. 18 said some local staff and clerks have contacted GAB about "anomalies" between census data and the actual municipal boundaries and geography.

"Clerks will be given instructions and training on how to correct any registered voters who are inadvertently placed in the wrong municipality," the GAB update reads.

Madison City Clerk Maribeth Witzel-Behl could not be reached immediately for comment about how many Madison-area voters were being affected.

Nickolaus said trying to fix discrepancies in the maps has been a "trying situation" for municipal clerks as well as officials with the state Government Accountability Board. She added that she didn't know exactly how the error occurred.

"I know it wasn't an error on my part, which is always a good thing," Nickolaus said.

Nickolaus drew heavy criticism in April after she announced that an inputting error caused her to fail to report thousands of votes from the city of Brookfield. The corrected vote totals pushed incumbent Justice David Prosser to win the contested state Supreme Court race after a recount.

# **EXHIBIT 5**



# Glitch puts some Wisconsin voters in Africa

## Clerks scrambling to get voters in right districts before primary

By Jason Stein and Patrick Marley of the Journal Sentinel

Jan. 11, 2012 | [\(153\) Comments](#)

**Madison** - Clerks in the state are scrambling to assign voters to the right districts after last summer's redrawing of legislative maps, with changes to the process putting voters in incorrect locations across town or even across the Atlantic Ocean.

The problems could add to the confusion for voters who may already be affected by the redistricting law approved by legislators last summer. Primaries for spring races are being held on Feb. 21, leaving little time to sort out the problems.

The errors affect thousands of voters around the state and stem from different sources, including inaccuracies in U.S. Census Bureau data and problems with a new way of assigning voters to districts in a state database.

"We're not only changing and moving districts, we're changing the system beneath it," said Julie Glancey, the Sheboygan County clerk. "We had many, many voters who showed up (on the computer map) on the coast of Africa and we had to drag them back to the state of Wisconsin and put them where they belonged."

State elections officials said they were trying to help clerks resolve the problems.

They hope to fix the issues by the Feb. 21 election, but if they don't, some voters could wind up at the wrong polling place - or find that they don't appear on the polling list at their correct polling place. In that case, they would have to work with election officials to fix the situation.

"Our job is to help clerks assign voters to proper districts based on the law. The legislation provides some challenges. We are working with the municipal clerks to assign voters to their proper districts," said Reid Magney, a spokesman for the state Government Accountability Board, which administers elections.

Magney provided only limited information on the problems, saying that he was unable to say more until Thursday because it could affect ongoing lawsuits over the redistricting maps.

But a Nov. 18 memo from the accountability board to clerks said that some stemmed from Census Bureau geographic data, which is accurate to about 50 meters. That's a big enough error margin that a house could potentially be placed in the wrong district, according to the memo.

State and local governments must draw new maps every decade for the districts of local officials, state

legislators and members of Congress to account for shifts in population recorded by the U.S. census.

### **Different approach**

In past decades, lawmakers waited for local officials to draw their lines and then built legislative maps along those ward lines. But this time, Republicans who control the Legislature drew the state maps first, using U.S. census blocks.

Republicans who control the Legislature acted quickly on the maps at a time when they faced recall elections that could have cost them the Senate majority. Democrats made gains in those elections, but Republicans held onto the majority with a one-vote margin. There was no immediate agreement among clerks and state officials on whether that decision to start with census blocks was adding to the problems.

Assembly Minority Leader Peter Barca (D-Kenosha) said he believed some of the problems could have been detected earlier if the Republicans had taken the usual approach.

"It doesn't surprise me that we would have these kinds of difficulties given the haste with which they rammed this through," Barca said. "It's so unfortunate. It could have been avoided."

Andrew Welhouse, a spokesman for Senate Majority Leader Scott Fitzgerald (R-Juneau), disagreed. He said most of the problems stemmed from the accountability board's decision to change how voters are handled in the state's database.

"That's got nothing to do with the redistricting decisions that we made," Welhouse said.

Sheboygan County's Glancey also said she didn't believe that the problems for her office would have been resolved by using local ward lines to draw the legislative maps.

That's because those problems stem from changes to the way voters are now being entered into the state system for registering them.

Going forward, voters are being entered into different districts by the physical location of their address in computerized maps. Previously, they were entered into different districts in the state voter database according to where their address fell in certain address ranges.

Local elections clerks, however, said that as part of the conversion to the new system many voters are being assigned to the wrong place on the map or not assigned at all.

Lisa Weiner, administrator of the Milwaukee County Election Commission, said her commission is not directly affected by the situation because municipalities in the county, rather than the commission, are responsible for making any changes. Sue Edman, executive director of the City of Milwaukee Election Commission, did not return calls.

Waukesha County Clerk Kathy Nickolaus said she may ask for help with the work from the accountability board.

"I would think we're in the thousands of things we have to check," Nickolaus said.

Maribeth Witzel-Behl, Madison city clerk, said the new system will make redistricting easier in the

future. But she said for now some voters are getting assigned to the wrong areas for city council, school board and legislative districts.

Witzel-Behl said the City of Madison has planners and mappers with sophisticated skills to clean up many of the problems but that she still had 1,130 addresses for her office to correct.

"It's going to be better in the long run, but in the meantime there's a lot of cleanup to do," Witzel-Behl said.

**Find this article at:**

<http://www.jsonline.com/news/statepolitics/clerks-scrambling-to-get-voters-in-right-districts-3v3ov36-137102098.html>

☐ Check the box to include the list of links referenced in the article.

# **EXHIBIT 6**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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ALVIN BALDUS, CINDY BARBERA, CARLENE  
BECHEN, RONALD BIENDSEIL, RON BOONE, VERA  
BOONE, ELVIRA BUMPUS, EVANJELINA  
CLEEREMAN, SHEILA COCHRAN, LESLIE W.  
DAVIS III, BRETT ECKSTEIN, MAXINE HOUGH,  
CLARENCE JOHNSON, RICHARD KRESBACH,  
RICHARD LANGE, GLADYS MANZANET,  
ROCHELLE MOORE, AMY RISSEEUW, JUDY  
ROBSON, GLORIA ROGERS, JEANNE SANCHEZ-  
BELL, CECELIA SCHLIEPP, TRAVIS THYSSEN,

Plaintiffs,

TAMMY BALDWIN, GWENDOLYNNE MOORE  
and RONALD KIND,

Intervenor-Plaintiffs,

v.

Members of the Wisconsin Government Accountability  
Board, each only in his official capacity:  
MICHAEL BRENNAN, DAVID DEININGER, GERALD  
NICHOL, THOMAS CANE, THOMAS BARLAND, and  
TIMOTHY VOCKE, and KEVIN KENNEDY, Director  
and General Counsel  
for the Wisconsin Government Accountability Board,

Defendants,

F. JAMES SENSENBRENNER, JR., THOMAS E. PETRI,  
PAUL D. RYAN, JR., REID J. RIBBLE,  
and SEAN P. DUFFY,

Intervenor-Defendants.

(caption continued on next page)

Civil Action  
File No. 11-CV-562

Three-judge panel  
28 U.S.C. § 2284

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**PLAINTIFFS' SECOND SUPPLEMENTAL RULE 26 DISCLOSURES**

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VOCES DE LA FRONTERA, INC., RAMIRO VARA,  
OLGA WARA, JOSE PEREZ, and ERICA RAMIREZ,

Plaintiffs,

v.

Case No. 11-CV-1011  
JPS-DPW-RMD

Members of the Wisconsin Government Accountability  
Board, each only in his official capacity:  
MICHAEL BRENNAN, DAVID DEININGER, GERALD  
NICHOL, THOMAS CANE, THOMAS BARLAND, and  
TIMOTHY VOCKE, and KEVIN KENNEDY, Director  
and General Counsel for the Wisconsin Government  
Accountability Board,

Defendants.

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In accordance with Federal Rules of Civil Procedure 26(a)(1) and 26(e)(1), plaintiffs  
supplement their initial disclosures, tendered on November 16, 2011 and first supplemented on  
December 29, 2011:

1. Rule 26(a)(1)(A)(i) - the name, address and telephone number of each individual  
likely to have discoverable information that the disclosing party may use to support its claims or  
defenses:

<u>Name/Address</u>	<u>Subject of information</u>
Kathy Nickolaus Waukesha County Clerk 515 West Moreland Blvd., Room 120 Waukesha, WI 53188-3878 (262) 548-7722	Issues raised by January 11, 2012 news article in the <i>Wisconsin State Journal</i> , "Errors in Redistricting process could affect thousands of voters."

Plaintiffs reserve the right to identify any additional witness disclosed in any of the  
documents produced in this litigation by defendants or third parties.

Plaintiffs make this second supplement to their initial and first supplemental disclosure  
based upon the knowledge and information now reasonably available to them. Accordingly,

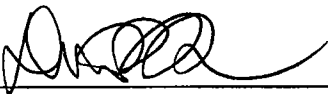
plaintiffs reserve the right to further supplement their initial disclosure in accordance with the Federal Rules of Civil Procedure and the local rules of this Court, including the identification of additional witnesses and experts in response to the initial disclosure or expert witness disclosure tendered by any party or in response to other information learned through the ongoing discovery process.

This supplement and plaintiffs' initial and first supplemental disclosure are provided without prejudice to plaintiffs' right to introduce at a hearing or at trial any evidence subsequently discovered.

Dated: January 11, 2012.

GODFREY & KAHN, S.C.

By:



---

Douglas M. Poland  
State Bar No. 1055189  
Dustin B. Brown  
State Bar. No. 1086277  
One East Main Street, Suite 500  
P.O. Box 2719  
Madison, WI 53701-2719  
608-257-3911  
dpoland@gklaw.com  
dbrown@gklaw.com  
*Attorneys for Plaintiffs*

7334399\_1

# **EXHIBIT 7**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

---

ALVIN BALDUS, CINDY BARBERA,  
CARLENE BECHEN, ELVIRA BUMPUS,  
RONALD BIENDSEI, LESLIE W. DAVIS, III,  
BRETT ECKSTEIN, GEORGIA ROGERS,  
RICHARD KRESBACH, ROCHELLE MOORE,  
AMY RISSEEUW, JUDY ROBSON, JEANNE  
SANCHEZ-BELL, CECELIA SCHLIEPP, and  
TRAVIS THYSSEN,

Plaintiffs,

v.

Case No. 11-C-00562  
(Three Judge Panel)

Members of the Wisconsin Government  
Accountability Board, each only in his official  
capacity: MICHAEL BRENNAN, DAVID  
DEININGER, GERALD NICHOL, THOMAS  
CANE, THOMAS BARLAND, and TIMOTHY  
VOCKE, and KEVIN KENNEDY, Director and  
General Counsel for the Wisconsin Government  
Accountability Board,

Defendants.

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DEFENDANTS' INITIAL RULE 26(a) DISCLOSURES

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NOW COME the defendants by their attorneys, J.B. Van Hollen, Attorney General, and  
Maria S. Lazar, Assistant Attorney General, and make the following initial disclosures pursuant  
to Fed. R. Civ. P. Rule 26(a)(1):

**A. Individuals potentially having knowledge regarding this matter.**

Defendants assert that the Government Accountability Board ("GAB") did not prepare,  
edit, or in any other way draft the redistricting maps for the new boundaries which were passed  
by the Legislature on July 19 and 20, 2011 and signed into law (2011 Wisconsin Acts 43 and 44)

by the Governor on August 9, 2011. GAB and the individual defendants have been sued because of their statutory responsibility to implement the districts that are now the law of the State. The defendants had no communications with the Legislature, prior to the enactment of the new redistricting maps on August 9, 2011, with respect to the boundaries of the new maps. Accordingly, the information and details provided in this Initial Rule 26(a) Disclosure are preliminary and to the best of the defendants' knowledge at this time. Defendants may amend this Disclosure as more discovery is completed.

Based upon the foregoing, the defendants make the following initial disclosures in accordance with the Court's Scheduling Order dated November 14, 2011:

1. Defendant Kevin J. Kennedy (GAB Director and General Counsel), Nathaniel E. Robinson (GAB Division Administrator, Elections Division), and other staff members or contracted employees, including but not limited to, Ross Hein, Sarah Whitt, David Grassel, Ann Oberle, and David Meyer, with respect to the implementation of the new redistricting maps.
2. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who were involved in drawing the redistricting maps which were signed into law on August 9, 2011, including without limitation, those individuals who reviewed the 2010 decennial census and assisted in determining the appropriate, constitutional boundaries for the state and Congressional districts as memorialized in Acts 43 and 44.
3. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who were involved in reviewing census and population data

from the 2010 decennial census to insure minimum population deviation for the new districts.

4. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who were involved in reviewing population and other data so as to preserve, to the extent possible and practicable, the core population of prior districts as well as communities of interest.
5. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who assisted the Legislature in insuring that the new redistricting maps, to the extent possible, kept wards and municipalities whole within legislative district boundaries and to the extent possible, recognized local government boundaries.
6. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who assisted the Legislature to insure that, if voters were shifted from odd to even senate districts, they were not unnecessarily and unconstitutionally disenfranchised by being deprived of the opportunity to vote.
7. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who reviewed the 2010 decennial census data and the previous districting maps to insure that the new districts were as geographically compact as practicable.
8. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who assisted the Legislature to prevent unnecessary and unconstitutional voter dilution of minority voters.

9. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who assisted the Legislature to insure that the new districts reflected communities of interest along with race and that, where possible, minority citizens comprising a numerical majority of the citizen voting age population.
10. Individuals who reside in, or are familiar with, challenged districts and/or pre-existing districts with respect to facts about those districts that are relevant to the constitutionality of the new redistricting maps.
11. Experts retained on behalf of the Legislature, and/or its various bodies, who assisted in preparing the redistricting maps.
12. Experts to be retained on behalf of the defendants who will assist in defending against the allegations in the First Amended Complaint.
13. Other individuals whose identity will become known through further discovery.

**B. Potentially relevant documents.**

Defendants may use the following documents to support their defenses in this matter.

1. Documents in the possession of the GAB with respect to the implementation of the new redistricting maps.
2. The approved district maps which were created (by the Legislature or the Courts) each decade from 1970 through 2002.
3. The decennial census from 1970 through 2010.
4. Documents which detail population growth and changes from 1970 through 2010, including, but not limited to, historical, minority-based, social, and other community of interest breakdowns.

5. Documents in the possession of the Legislature, and/or its various bodies, which were utilized to draft the 2011 redistricting maps.
6. Expert reports and analysis, if any, in the possession of the Legislature, and/or its various bodies, which were utilized to draft the 2011 redistricting maps.
7. The defendants reserve the right to supplement this response with any documents that become known through further discovery.

All of the documents listed above, which are in the possession of counsel for defendants, have been made available for inspection by the other parties at a time and place mutually agreed upon by all parties. Any copies that are requested as a result of any inspection may be obtained at the expense of the requestor at the usual State copying rate.

**C. Calculation of damages.**

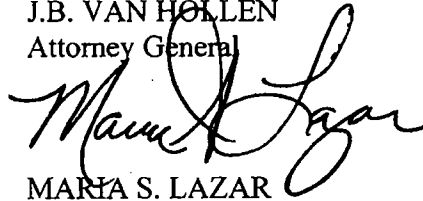
Monetary damages are not being sought in this action. Defendants reserve the right to present rebuttal evidence through their named fact and expert witnesses, as to any damages alleged by the plaintiffs.

**D. Insurance agreements.**

The State of Wisconsin is self-insured.

Dated this 16th day of November, 2011.

J.B. VAN HOLLEN  
Attorney General



MARIA S. LAZAR  
Assistant Attorney General  
State Bar #1017150

Attorneys for Defendants

Wisconsin Department of Justice  
Post Office Box 7857  
Madison, Wisconsin 53707-7857  
(608) 267-3519  
(608) 267-2223 (fax)  
*lazarms@doj.state.wi.us*

# **EXHIBIT 8**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

---

ALVIN BALDUS, CARLENE BECHEN, ELVIRA  
BUMPUS, RONALD BIENDSEIL, LESLIE W.  
DAVIS, III, BRETT ECKSTEIN, GLORIA  
ROGERS, RICHARD KRESBACH, ROCHELLE  
MOORE, AMY RISSEEUW, JUDY ROBSON,  
JEANNE SANCHEZ-BELL, CECELIA  
SCHLIEPP, TRAVIS THYSSEN, CINDY  
BARBERA, RON BOONE, VERA BOONE,  
EVANJELINA CLEERMAN, SHEILA  
COCHRAN, MAXINE HOUGH, CLARENCE  
JOHNSON, RICHARD LANGE, and GLADYS  
MANZANET,

Plaintiffs,

Case No. 11-CV-00562  
JPS-DPW-RMD

TAMMY BALDWIN, GWENDOLYNNE MOORE and  
RONALD KIND,

Inteviewer-Plaintiffs,

Members of the Wisconsin Government  
Accountability Board, each only in his official  
capacity: MICHAEL BRENNAN, DAVID  
DEININGER, GERALD NICHOL, THOMAS  
CANE, THOMAS BARLAND, and TIMOTHY  
VOCKE, and KEVIN KENNEDY, Director and  
General Counsel for the Wisconsin Government  
Accountability Board,

Defendants,

F. JAMES SENSENBRENNER, JR., THOMAS E.  
PETRI, PAUL D. RYAN, JR., REID J. RIBBLE,  
and SEAN P. DUFFY.

Inteviewer-Defendants.

---

VOCES DE LA FRONTERA, INC.,  
RAMIRO VARA, OLGA VARA,

JOSE PEREZ, and ERICA RAMIREZ,

Plaintiffs,

v.

Case No. 11-CV-1011  
JPS-DPW-RMD

Members of the Wisconsin Government  
Accountability Board, each only in his official  
capacity: MICHAEL BRENNAN, DAVID  
DEININGER, GERALD NICHOL, THOMAS  
CANE, THOMAS BARLAND, TIMOTHY  
VOCKE, and KEVIN KENNEDY, Director  
and General Counsel for the Wisconsin  
Government Accountability Board,

Defendants.

---

DEFENDANTS' AMENDED INITIAL RULE 26(a) DISCLOSURES

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NOW COME the defendants by their attorneys, J.B. Van Hollen, Attorney General, and Maria S. Lazar, Assistant Attorney General, and make the following amended initial disclosures pursuant to Fed. R. Civ. P. Rule 26(a)(1):

**A. Individuals potentially having knowledge that the defendants may use to support their claims or defenses.**

Defendants assert that the Government Accountability Board ("GAB") did not prepare, edit, or in any other way draft the redistricting maps for the new boundaries which were passed by the Legislature on July 19 and 20, 2011 and signed into law (2011 Wisconsin Acts 43 and 44) by the Governor on August 9, 2011. GAB and the individual defendants have been sued because of their statutory responsibility to implement the districts that are now the law of the State. The defendants had no communications with the Legislature, prior to the enactment of the new

redistricting maps on August 9, 2011, with respect to the boundaries of the new maps. Accordingly, the information and details provided in these Amended Initial Rule 26(a) Disclosures are preliminary and to the best of the defendants' knowledge at this time. Defendants may amend these Disclosures as more discovery is completed.

Based upon the foregoing, the defendants make the following amended initial disclosures in accordance with the Court's Scheduling Order dated November 14, 2011:

1. Defendant Kevin J. Kennedy (GAB Director and General Counsel)  
Government Accountability Board  
212 East Washington Avenue, 3rd Floor  
Madison, WI 53703  
(608) 266-8005

Implementation of new redistricting maps (2011 Wisconsin Acts 43 and 44), other election administration, including but not limited to, election process, deadlines, past elections and historical information.

2. Nathaniel E. Robinson (GAB Division Administrator, Elections Division)  
Government Accountability Board  
212 East Washington Avenue, 3rd Floor  
Madison, WI 53703  
(608) 266-8005

Implementation of new redistricting maps (2011 Wisconsin Acts 43 and 44), other election administration, including but not limited to, election process, deadlines, past elections and historical information.

3. Ross Hein  
Government Accountability Board  
212 East Washington Avenue, 3rd Floor  
Madison, WI 53703  
(608) 266-8005

Implementation of new redistricting maps (2011 Wisconsin Acts 43 and 44), other election administration, including but not limited to, election process, deadlines, and past elections.

4. Sarah Whitt  
Government Accountability Board  
212 East Washington Avenue, 3rd Floor  
Madison, WI 53703  
(608) 266-8005

Implementation of new redistricting maps (2011 Wisconsin Acts 43 and 44), other election administration, including but not limited to, election process, deadlines, and past elections.

5. David Grassel  
Government Accountability Board  
212 East Washington Avenue, 3rd Floor  
Madison, WI 53703  
(608) 266-8005

Implementation of new redistricting maps (2011 Wisconsin Acts 43 and 44), other election administration, including but not limited to, election process, deadlines, and past elections.

6. Ann Oberle  
Government Accountability Board  
212 East Washington Avenue, 3rd Floor  
Madison, WI 53703  
(608) 266-8005

Implementation of new redistricting maps (2011 Wisconsin Acts 43 and 44), other election administration, including but not limited to, election process, deadlines, and past elections.

7. David Meyer  
Government Accountability Board  
212 East Washington Avenue, 3rd Floor  
Madison, WI 53703  
(608) 266-8005

Implementation of new redistricting maps (2011 Wisconsin Acts 43 and 44), other election administration, including but not limited to, election process, deadlines, and past elections.

8. Ronald Keith Gaddie, factual and expert testimony  
Professor of Political Science  
The University of Oklahoma  
455 West Lindsey Street, Room 222  
Norman, OK 73019-2001  
(405) 325-4989

Professor Gaddie will provide testimony regarding the constitutional requirements of the legislative maps at issue including, but not limited to, contiguity, compactness, communities of interest, core district populations, population requirements, voting rights, municipal and county splits, pairings, potential disenfranchisement and the lack of impermissible political gerrymandering of districts.

9. Individuals from the Legislature or one of its agencies who can provide factual, population, census data and other historical information related to the constitutional requirements of legislative maps at issue.
10. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who were involved in drawing the redistricting maps that were signed into law on August 9, 2011, including without limitation, those individuals who reviewed the 2010 decennial census and assisted in determining the appropriate, constitutional boundaries for the state and Congressional districts as memorialized in Acts 43 and 44:

Adam Foltz  
Room 211 West, State Capitol  
Madison, WI 53708  
(608) 266-3387

Tad Ottman  
Room 211 South, State Capitol  
Madison, WI 53708  
(608) 266-5660

Joe Handrick  
Reinhart, Boerner, Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
(414) 298-1000

11. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who were involved in reviewing census and population data from the 2010 decennial census to insure minimum population deviation for the new districts:

Adam Foltz  
Room 211 West, State Capitol  
Madison, WI 53708  
(608) 266-3387

Tad Ottman  
Room 211 South, State Capitol  
Madison, WI 53708  
(608) 266-5660

Joe Handrick  
Reinhart, Boerner, Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
(414) 298-1000

12. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who were involved in reviewing population and other data so as to preserve, to the extent possible and practicable, the core population of prior districts as well as communities of interest:

Adam Foltz  
Room 211 West, State Capitol  
Madison, WI 53708  
(608) 266-3387

Tad Ottman  
Room 211 South, State Capitol  
Madison, WI 53708  
(608) 266-5660

Joe Handrick  
Reinhart, Boerner, Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
(414) 298-1000

13. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who assisted the Legislature in insuring that the new redistricting maps, to the extent possible, kept wards and municipalities whole within legislative district boundaries and to the extent possible, recognized local government boundaries:

Adam Foltz  
Room 211 West, State Capitol  
Madison, WI 53708  
(608) 266-3387

Tad Ottman  
Room 211 South, State Capitol  
Madison, WI 53708  
(608) 266-5660

Joe Handrick  
Reinhart, Boerner, Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
(414) 298-1000

14. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who assisted the Legislature to insure that, if voters were shifted

from odd to even senate districts, they were not unnecessarily disenfranchised by being deprived of the opportunity to vote:

Adam Foltz  
Room 211 West, State Capitol  
Madison, WI 53708  
(608) 266-3387

Tad Ottman  
Room 211 South, State Capitol  
Madison, WI 53708  
(608) 266-5660

Joe Handrick  
Reinhart, Boerner, Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
(414) 298-1000

15. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who reviewed the 2010 decennial census data and the previous districting maps to insure that the new districts were as geographically compact as practicable:

Adam Foltz  
Room 211 West, State Capitol  
Madison, WI 53708  
(608) 266-3387

Tad Ottman  
Room 211 South, State Capitol  
Madison, WI 53708  
(608) 266-5660

Joe Handrick  
Reinhart, Boerner, Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
(414) 298-1000

16. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who assisted the Legislature to prevent unnecessary and unconstitutional voter dilution of minority voters:

Adam Foltz  
Room 211 West, State Capitol  
Madison, WI 53708  
(608) 266-3387

Tad Ottman  
Room 211 South, State Capitol  
Madison, WI 53708  
(608) 266-5660

Joe Handrick  
Reinhart, Boerner, Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
(414) 298-1000

17. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who assisted the Legislature to insure that the new districts reflected communities of interest:

Adam Foltz  
Room 211 West, State Capitol  
Madison, WI 53708  
(608) 266-3387

Tad Ottman  
Room 211 South, State Capitol  
Madison, WI 53708  
(608) 266-5660

Joe Handrick  
Reinhart, Boerner, Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
(414) 298-1000

18. Individuals who reside in, or are familiar with, challenged districts and/or pre-existing districts with respect to facts about those districts that are relevant to the constitutionality of the new redistricting maps.
19. Experts retained on behalf of the Legislature, and/or its various bodies, who assisted in preparing the redistricting maps.
20. Experts retained, or to be retained, on behalf of the defendants who will assist in defending against the allegations in the Second Amended Complaint.

Ronald Keith Gaddie, factual and expert testimony  
Professor of Political Science  
The University of Oklahoma  
455 West Lindsey Street, Room 222  
Norman, OK 73019-2001  
(405) 325-4989

Professor Gaddie will provide testimony regarding the constitutional requirements of the legislative maps at issue including, but not limited to, contiguity, compactness, communities of interest, core district populations, population requirements, voting rights, municipal and county splits, pairings, potential disenfranchisement and the lack of impermissible political gerrymandering of districts.

21. Other individuals whose identity will become known through further discovery.

Pursuant to Fed. R. Civ. P. 26(a)(1)(A)(i), the parties are to provide “the name, and if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.” Accordingly, the names listed above consist of the individuals, presently known to the defendants, who the defendants may use to support their claims or defenses. *Gluck v. Ansett Australia Ltd.*, 204 F.R.D. 217 (D.D.C. 2001) (plaintiff challenging defendants 26(a) disclosures required to show

that defendant intended to use undisclosed individuals at trial); *A Traveler v. CSX Transp., Inc.*, No. 1:06-cv-56, 2006 WL 2051732 (July 20, 2006, N.D. Ind.). Federal Rule of Civil Procedure 26, 2000 Notes of Advisory Committee, ¶9 ("A party is no longer obligated to disclose witnesses or documents, whether favorable or unfavorable, that it does not intend to use. . . . As case preparation continues, a party must supplement its disclosures when it determines that it may use a witness or document that it did not previously intend to use."); *Crouse Cartage Co. v. Nat'l Warehouse Inv. Co.*, No IP02-0071-c-T/K, 2003 WL 21254617 (S.D. Ind. April 10, 2003) (challenge to 26(a) disclosures failed to clear "high hurdle" of demonstrating intent to use undisclosed witness).

Moreover, the matter at issue in this case is the constitutionality of Acts 43 and 44. Several of the individuals listed by the plaintiffs—aside from their expert—appear to be relevant only to the intent of the Legislature when it enacted these Acts. The Wisconsin State Supreme Court has expressly noted that legislative intent is determined by the language of a statute, not the subjective views of individual legislators who may have supported a bill. "It is the enacted law, not the unenacted intent, that is binding on the public." *State ex rel. Kalal v. Circuit Court*, 2004 WI 58, ¶ 44, 271 Wis. 2d 633, 681 N.W.2d 110. While there may be some inquiry into the action taken by the Legislature, "[g]overnmental action only fails rational basis scrutiny if no sound reason for the action can be hypothesized." *Board of Trustees v. Garrett*, 531 U.S. 356, 367 (2001). Finally, it is quite difficult, if not nearly impossible to determine legislative intent. *Edwards v. Aguillard*, 482 U.S. 578, 636-37 (1987) (J. Scalia, dissenting) ("discerning the subjective motivation of those enacting statutes is, to be honest, almost always an impossible task. The number of possible motivations, to begin with, is not binary, or indeed finite . . . To look for the sole purpose of even a single legislator is probably to look for something that does

not exist.”) Indeed, if the trial in this case will delve into subjective motivations, it will not be completed within the four days allotted. Therefore, some of the individuals identified in the plaintiffs’ Initial Disclosures are not relevant to this challenge, and, are appropriately not identified by the defendants.

**B. Potentially relevant documents.**

Defendants may use the following documents to support their defenses in this matter.

1. Documents in the possession of the GAB with respect to the implementation of the legislative maps at issue.
2. The approved legislative maps which were created (by the Legislature or the Courts) each decade from 1970 through 2002.
3. The decennial census from 1970 through 2010.
4. Documents which detail population growth and changes from 1970 through 2010, including, but not limited to, historical, minority-based, social, and other community of interest breakdowns.
5. Historical documents and information relating to the constitutional requirements for the legislative maps at issue, including, but not limited to, contiguity, compactness, communities of interest, core district populations, population requirements, voting rights, municipal and county splits, pairings, and potential disenfranchisement.
6. Documents in the possession of the Legislature, and/or its various bodies, that were utilized to draft the 2011 legislative maps at issue.
7. Expert reports and analysis, if any, in the possession of the Legislature, and/or its various bodies, that were utilized to draft the 2011 legislative maps at issue.

8. The defendants reserve the right to further supplement this response with any documents that become known through further discovery.

Any of the documents listed above which are in the possession of defendants will be made available for inspection by the other parties at a time and place mutually agreed upon by all parties. Any copies that are requested as a result of any inspection may be obtained at the expense of the requestor at the usual State copying rate.

**C. Calculation of damages.**

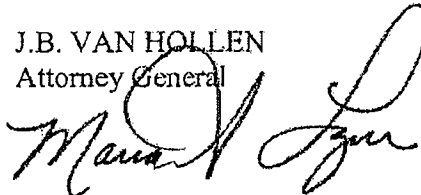
Monetary damages are not being sought in this action. Defendants reserve the right to present rebuttal evidence through their named fact and expert witnesses, as to any damages alleged by the plaintiffs.

**D. Insurance agreements.**

The State of Wisconsin is self-insured.

Dated this 25th day of November, 2011.

J.B. VAN HOLLEN  
Attorney General



MARIA S. LAZAR  
Assistant Attorney General  
State Bar #1017150

Attorneys for Defendants

Wisconsin Department of Justice  
Post Office Box 7857  
Madison, Wisconsin 53707-7857  
(608) 267-3519  
(608) 267-2223 (fax)  
[lazarms@doj.state.wi.us](mailto:lazarms@doj.state.wi.us)

# **EXHIBIT 9**

November 29, 2011

**BY HAND DELIVERY**

Maria S. Lazar  
Assistant Attorney General  
Wisconsin Department of Justice  
17 W. Main Street  
Madison, Wisconsin 53703

*Baldus et al. v. Brennan et al.*  
Case No. 11-CV-562

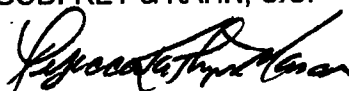
Dear Maria:

Pursuant to the state's amended Rule 26 disclosures, we are writing to schedule a date and time to inspect the documents described in paragraphs B.1 through B.8 that defendants may use to support their defenses. We are available to review the documents at any time during regular business hours beginning tomorrow, Wednesday, November 29.

Given the expedited discovery schedule, we request that the inspection and copying of the documents occur within the next week (that is, on or before Tuesday, December 6). Please let us know the earliest date(s) you can accommodate the inspection of documents, and what time(s) the documents will be made available for our inspection and copying.

It is our understanding that you are requiring us to inspect the documents at the Department of Justice in downtown Madison.

GODFREY & KAHN, S.C.



Rebecca Kathryn Mason

RKM:aeg

cc: P. Scott Hassett (via U.S. Mail)  
Peter G. Earle (via U.S. Mail)  
Thomas L. Shriner, Jr. (via U.S. Mail)

7160342\_3

# **EXHIBIT 10**

December 5, 2011

**VIA E-MAIL (phodan@reinhardtllaw.com)**

Patrick Hodan  
Reinhart Boerner Van Deuren s.c.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202

*Baldus et al. v. Brennan et al.*, Eastern District of Wisconsin Case No. 11-CV-562

Dear Mr. Hodan:

Thank you for the telephone call last week. We look forward to similarly collegial communications moving forward.

Based on our conversation, it is our understanding that the state does not have any documents available for our inspection at this time. It is also our understanding that you are continuing to search for discoverable documents and that you will provide copies of any documents as part of the state's December 12, 2011 discovery responses.

As we discussed, your representation that the state does not have any documents available for our inspection at this time seems to contradict your client's Rule 26 disclosures, which explicitly and without equivocation enumerated eight categories of documents – including "Documents in the possession of the Legislature, and/or its various bodies, that were utilized to draft the 2011 legislative maps at issue" and "Expert reports and analysis, if any, in the possession of the Legislature, and/or its various bodies, that were utilized to draft the 2011 legislative maps at issue." The pleading then stated that all of these documents "which are in the possession of counsel for defendants, have been made available for inspection by the other parties at a time and place mutually agreed upon by all parties" (emphasis added).

Relying on these Rule 26 disclosures, on November 29 we sent a letter to the Department of Justice to schedule a day and time to inspect the documents. Based on our phone conversation, it is our understanding that, now, there will be no inspection of documents and that we will not receive any other response to that letter. Notwithstanding your client's amended Rule 26 disclosures, the disclosures stated that these documents exist, that attorneys for the defendants have such documents in their possession, and that the documents were available for inspection.

The Court recently ruled on the Motion to Compel. As long as the state does not intend to use the undisclosed documents in support of its defense, plaintiffs may not be entitled to them through Rule 26 disclosures. We are still entitled to them through the pending discovery requests. If the state later

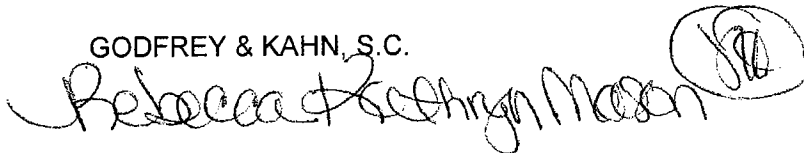
Patrick Hodan  
December 5, 2011  
Page 2

attempts to use any of the documents described in the Rule 26 disclosures in its defense, however, the plaintiffs will ask the Court to preclude and/or strike the use of the documents. In fact, the Court's decision invites that.

We will exchange discovery responses on December 12, and we will always be available to discuss issues with you.

Sincerely,

GODFREY & KAHN, S.C.

A handwritten signature in cursive script that reads "Rebecca Kathryn Mason". To the right of the signature is a circular stamp containing the initials "SK".

Rebecca Kathryn Mason  
Wendy K. Arends

RKM:jrh

7173001\_1

# **EXHIBIT 11**

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF WISCONSIN

---

ALVIN BALDUS, CINDY BARBERA,  
CARLENE BECHEN, RONALD BIENDSEIL,  
ROSS BOONE, VERA BOONE, ELVIRA  
BUMPUS, EVANJELINA CLEEREMAN,  
SHEILA COCHRAN, LESLIE W. DAVIS III,  
BRETT ECKSTEIN, MAXINE HOUGH,  
CLARENCE JOHNSON, RICHARD KRESBACH,  
RICHARD LANGE, GLADYS MANZANET,  
ROCHELLE MOORE, AMY RISSEEUW, JUDY  
ROBSON, GLORIA ROGERS, JEANNE  
SANCHEZ-BELL, CECELIA SCHLIEPP,  
TRAVIS THYSSEN,<sup>1</sup>

Civil Action  
File No. 11-CV-562

Three-judge panel  
28 U.S.C. § 2284

Plaintiffs,

v.

Members of the Wisconsin Government  
Accountability Board, each only in his official  
capacity: MICHAEL BRENNAN, DAVID  
DEININGER, GERALD NICHOL, THOMAS  
CANE, THOMAS BARLAND, and TIMOTHY  
VOCKE, and KEVIN KENNEDY, Director and  
General Counsel for the Wisconsin Government  
Accountability Board,

Defendants.

---

**PLAINTIFFS' FIRST SET OF INTERROGATORIES  
AND FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

---

TO: Maria S. Lazar  
Assistant Attorney General  
Wisconsin Department of Justice  
17 West Main Street  
P.O. Box 7857  
Madison, Wisconsin 53701-7857

---

<sup>1</sup> On November 18, 2011, plaintiffs filed their Second Amended Complaint and a complementary Motion to Amend the Caption.

## **DEFINITIONS**

1. "You" and "your" means the defendants individually and as a group, and all other persons acting on behalf of or in concert with the defendants, including, but not limited to, attorneys, investigators, employees, or agents.
2. "Individual" means any person characterized as an "individual" in "Defendants' Initial Rule 26(a) Disclosures" filed on November 12, 2011 ("Defendants' Disclosures").
3. "In your possession, custody or control" means all documents which are in the actual or constructive possession, custody or control of any of the defendants, their agents, employees, officers and all other persons acting on its or their behalf.
4. "Communication," "document," "to identify," and "person" are defined as provided in Civil L.R. 26(d)(2).

## **INTERROGATORIES**

PLEASE TAKE NOTICE that plaintiffs Alvin Baldus, Cindy Barbera, Carlene Bechen, Ronald Biendseil, Ross Boone, Vera Boone, Elvira Bumpus, Evanjelina Cleereman, Sheila Cochran, Leslie W. Davis III, Brett Eckstein, Maxine Hough, Clarence Johnson, Richard Kresbach, Richard Lange, Gladys Manzanet, Rochelle Moore, Amy Risseeuw, Judy Robson, Gloria Rogers, Jeanne Sanchez-Bell, Cecelia Schliepp, and Travis Thyssen, by their attorneys Godfrey & Kahn, S.C., pursuant to Fed. R. Civ. P. 33 and the Court's Scheduling and Discovery Order dated November 14, 2011, hereby demand that defendants make full answer in writing under oath to the following questions within twenty (20) days after service of these interrogatories—that is, on or before December 12, 2011.

## **INSTRUCTIONS**

1. Answer each interrogatory separately and fully in writing under oath, unless it is objected to, in which event the reasons for objections must be stated in lieu of an answer.

2. An evasive or incomplete answer shall be considered a failure to answer under Fed. R. Civ. P. 33(b)(3).

3. You are under a continuing duty to seasonably supplement your response with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters. Furthermore, you are under a similar duty to correct any incorrect response when you have later learned that it is incorrect.

4. For purposes of these interrogatories, when you are asked to identify a person, identify the person's full name, age, telephone number, and current residential and business addresses, together with a statement as to their relationship with you, if any, and if not presently related, a statement as to whether any such relationship ever existed and the inclusive dates of it.

5. In answering the interrogatories, you are required to furnish information that is available to you or available subject to reasonable inquiry, including information in possession of other persons, firms, partnerships, corporations, or associations directly or indirectly employed by or connected with you or anyone else otherwise subject to your control. This includes employees, contractors and agents of the Wisconsin State Senate and the Wisconsin State Assembly.

**INTERROGATORY NO. 1:**

Please identify all of the individuals or entities with whom or with which you consulted or communicated regarding the Rule 26(a) submission you exchanged with plaintiffs' counsel on November 16, 2011—whether before, during or after the submission's preparation.

**INTERROGATORY NO. 2:**

Please identify all of the individuals or entities with whom or with which you consulted or communicated regarding the preparation of your "Defendants' Answer and Affirmative Defenses ..." (the "Answer") that you filed on November 4, 2011. Identify, in addition, all of

the individuals or entities with whom or with which you shared either: a) any draft of that Answer and/or b) a copy of that Answer once filed.

**INTERROGATORY NO. 3:**

Please identify all of the individuals with whom you have had communications about the possibility or necessity of testifying as a lay or expert witness at the trial of this matter.

**INTERROGATORY NO. 4:**

Please identify all of the individuals, other than those employed at the Department of Justice, who have reviewed any draft materials of any kind connected with this litigation. If any of those individuals are members of the State Bar of Wisconsin, identify them along with the basis for the relationship between you and the individual.

**INTERROGATORY NO. 5:**

Please identify all of the "individuals" to which you refer anonymously in paragraphs 2 through 10 of Defendants' Disclosures.

**INTERROGATORY NO. 6:**

Please identify all of the "experts" to which you refer anonymously in paragraphs 11 and 12 of Defendants' Disclosures.

**INTERROGATORY NO. 7:**

Please identify and describe the "state and/or governmental interests" that, in your Answer you maintain are "directly advance[d]" by the new redistricting law and describe how they are advanced.

**INTERROGATORY NO. 8:**

Please identify all of the individuals or entities with whom or with which you consulted or communicated regarding the preparation of your responses to these interrogatories and document requests.

### **INTERROGATORY NO. 9:**

Please identify all facts that support the Defendant's assertion that the 2011 maps are constitutional.

### **REQUEST FOR PRODUCTION OF DOCUMENTS**

PLEASE TAKE NOTICE that plaintiffs, by their attorneys, pursuant to Fed. R. Civ. P. 34 and the Court's Scheduling and Discovery Order dated November 14, 2011, hereby demand that defendants, within twenty (20) days after service of this request—that is, on or before December 12, 2011—permit plaintiffs' attorneys to inspect and copy the following or, in the alternative, produce legible copies at the office of plaintiffs' attorneys, Godfrey & Kahn, S.C., One East Main Street, Suite 500, Madison, Wisconsin.

### **INSTRUCTIONS**

1. Respond to each document request fully, unless it is objected to, in which event the reasons for objections must be stated in lieu of providing responsive documents.
2. An evasive or incomplete response shall be considered a failure to respond under Fed. R. Civ. P. 34(b)(2)(A) and (B).
3. You are under a continuing duty to correct any incorrect or incomplete response as soon as you learn that it is incorrect or incomplete.
4. In responding to these document requests, you are required to furnish information that is available to you or subject to your reasonable inquiry, including information in possession of other persons, firms, partnerships, corporations, or associations directly or indirectly employed by or connected with you or anyone else otherwise subject to your control. This includes employees, contractors and agents of the Wisconsin State Senate and the Wisconsin State Assembly.

5. If you refuse to produce a requested document, explain the grounds for the refusal and identify the document by describing its nature (*e.g.*, memo, letter, notes), date, author(s), recipient(s), and subject matter.

6. If any requested document is withheld based on either attorney-client privilege or the attorney work product doctrine or both, a privilege and work product log that complies with the Federal Rules of Civil Procedure related to discovery requests, specifically identifying the attorney or attorneys involved and the document, shall accompany the responses to these requests.

**DOCUMENT REQUEST NO. 1:**

Please produce any and all documents that defendants intend to introduce at the trial of this matter, scheduled for February 21 through 24, 2012, or whenever held.

**DOCUMENT REQUEST NO. 2:**

Please produce any and all documents identified in response or in connection with the preparation of the response to the Interrogatories above.

**DOCUMENT REQUEST NO. 3:**

Please produce the “documents,” including the “expert reports” and other materials that you identified in the Defendants’ Disclosures and that you admit already you have in your actual, possession, custody and control.

**DOCUMENT REQUEST NO. 4:**

Please produce any and all documents related to retaining the core population of Wisconsin’s prior (2002) districts, including but not limited to any data or analyses used by the legislature and/or its various bodies, or those individuals on the legislature’s behalf to draw the 2011 redistricting maps enacted as Acts 43 and 44.

**DOCUMENT REQUEST NO. 5:**

Please produce any and all documents related to maintaining communities of interest, including but not limited to any data or analyses, used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

**DOCUMENT REQUEST NO. 6:**

Please produce any and all documents related to shifting populations from even to odd state senate districts, including but not limited to any data or analyses, that were used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

**DOCUMENT REQUEST NO. 7:**

Please produce any and all documents related to establishing compact districts, including but not limited to any data or analyses, that were used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

**DOCUMENT REQUEST NO. 8:**

Please produce any and all documents related to minority voters, including but not limited to any data or analyses, that were used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

**DOCUMENT REQUEST NO. 9:**

Please produce any and all documents related to the preservation of political subdivision boundaries (e.g., counties, municipalities, wards and district lines drawn by local political units), including but not limited to any data or analyses, that were used by the legislature and/or its

various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

**DOCUMENT REQUEST NO. 10:**

Please produce any and all documents related to the partisan make-up and effect, including but not limited to any data or analyses, that were used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

**DOCUMENT REQUEST NO. 11:**

Please produce any and all documents related to the involvement of Democratic legislators in drawing the 2011 redistricting maps enacted as Acts 43 and 44.

**DOCUMENT REQUEST NO. 12:**

Please produce any and all documents related to census data from 1970 through 2010, including but not limited to, any documents detailing population growth and changes from 1970 through 2010.

**DOCUMENT REQUEST NO. 13:**

Please produce any and all documents used by the legislature to create the 2011 districts enacted as Acts 43 and 44.

Dated: November 22, 2011.

GODFREY & KAHN, S.C.

By:



Rebecca Kathryn Mason

State Bar No. 1055500

Wendy K. Arends\*

One East Main Street, Suite 500

P.O. Box 2719

Madison, WI 53701-2719

608-257-3911

rmason@gklaw.com

*Attorneys for Plaintiffs*

*\*Admission to the United States District Court for the Eastern District of Wisconsin is pending.*

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# **EXHIBIT 12**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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ALVIN BALDUS, CARLENE BECHEN, ELVIRA  
BUMPUS, RONALD BIENDSEI, LESLIE W.  
DAVIS, III, BRETT ECKSTEIN, GEORGIA  
ROGERS, RICHARD KRESBACH, ROCHELLE  
MOORE, AMY RISSEEUW, JUDY ROBSON,  
JEANNE SANCHEZ-BELL, CECELIA  
SCHLIEPP, TRAVIS THYSSEN and  
CINDY BARBERA,

Plaintiffs,

Case No. 11-C-562  
JPS-DPW-RMD

TAMMY BALDWIN, GWENDOLYNNE  
MOORE, and RONALD KIND,

Intervenor-Plaintiffs,

v.

Members of the Wisconsin Government  
Accountability Board, each only in his official  
capacity: MICHAEL BRENNAN,  
DAVID DEININGER, GERALD NICHOL,  
THOMAS CANE, THOMAS BARLAND,  
TIMOTHY VOCKE, and KEVIN KENNEDY,  
Director and General Counsel for the Wisconsin  
Government Accountability Board,

Defendants,

F. JAMES SENSENBRENNER, JR.,  
THOMAS E. PETRI, PAUL D. RYAN, JR.,  
REID J. RIBBLE, and SEAN P. DUFFY,

Intervenor-Defendants.

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VOCES DE LA FRONTERA, INC., RAMIRO  
VARA, OLGA VARA, JOSE PEREZ, and ERICA  
RAMIREZ,

Plaintiffs,

Case No. 11-CV-1011  
JPS-DPW-RMD

v.

Members of the Wisconsin Government  
Accountability Board, each only in his official  
capacity: MICHAEL BRENNAN, DAVID  
DEININGER, GERALD NICHOL, THOMAS  
CANE, THOMAS BARLAND, TIMOTHY  
VOCKE, and KEVIN KENNEDY, Director and  
General Counsel for the Wisconsin Government  
Accountability Board,

Defendants.

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**DEFENDANTS' ANSWERS TO PLAINTIFFS' FIRST SET OF  
INTERROGATORIES AND FIRST REQUEST FOR PRODUCTION OF  
DOCUMENTS**

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The defendants, the Members of the Wisconsin Government Accountability Board ("GAB"), Michael Brennan, David Deininger, Gerald Nichol, Thomas Cane, Thomas Barland, and Timothy Vocke, each in his official capacity only, and Kevin Kennedy, in his official capacity as Director and General Counsel for the GAB only, by their attorneys, J.B. Van Hollen, Attorney General, and Maria S. Lazar, Assistant Attorney General, and Reinhart Boerner Van Deuren s.c., by Patrick J. Hodan, Daniel Kelly and Colleen E. Fielkow, hereby answer Plaintiffs' First Set of Interrogatories and First Request for Production of Documents ("Discovery Requests") as follows:

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## **GENERAL OBJECTIONS**

1. Defendants object to plaintiffs' Discovery Requests to the extent they call for information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable doctrine or privilege. The inadvertent disclosure of privileged or protected information or documents by defendants may not be deemed to be a waiver of any applicable privilege or protection with respect to such information or documents or the subject matter of the information or documents, and defendants reserve the right to seek the return and/or destruction of any information or document that was inadvertently produced.

2. Defendants object to plaintiffs' Discovery Requests to the extent they seek responses by persons or entities other than defendants and to the extent they seek information or documents not within defendants' possession, custody, or control.

3. Defendants object to plaintiffs' definition of "you" and "your" because it seeks information from "all other persons acting on behalf of or in concert with defendants, including, but not limited to, attorneys, investigators, employees or agents." Other than the individual defendants acting in their official capacity at the GAB and the GAB employees, defendants object to answering on behalf of any other persons. Specifically, plaintiffs' requests for information from or relating to work by GAB's litigation counsel are impermissible under the attorney client and work product privileges.

4. Defendants object to plaintiffs' requests for documents to the extent they seek documents that are not in the possession or under the control of the GAB and the named individuals in their official capacities.

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5. Defendants object to plaintiffs' Discovery Requests to the extent they purport to impose obligations on defendants beyond those permitted under the Federal Rules of Civil Procedure and/or local court rule.

6. Defendants object to plaintiffs' Discovery Requests as overbroad and unduly burdensome to the extent that they seek the identification of "all" and "any" facts or documents concerning a given subject matter. Defendants further object to plaintiffs' request of it to "identify" or "describe" facts and circumstances as overly broad and unduly burdensome. Defendants' investigation is continuing, and defendants reserve the right to supplement and/or amend their responses to plaintiffs' Discovery Requests as additional information is obtained.

7. Defendants object to plaintiffs' Discovery Requests to the extent they are vague, ambiguous, unduly burdensome, oppressive, irrelevant, and/or not reasonably particular.

8. Defendants object to plaintiffs' Discovery Requests to the extent they seek information that is a matter of public record, is publicly available, or is otherwise equally accessible to all parties.

9. Defendants object to plaintiffs' Discovery Requests to the extent they seek information or documents that are not relevant to the subject matter of this action or to the claims or defenses of any party, are not reasonably calculated to lead to the discovery of admissible evidence, or are otherwise outside the proper scope of discovery.

10. Defendants object to plaintiffs' Discovery Requests to the extent they relate to any legal conclusion or application of any legal concept or call for an expert opinion or testimony.

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11. Defendants object to plaintiffs' Discovery Requests to the extent they seek cumulative or duplicative information.

12. Defendants object to plaintiffs' Discovery Requests as overly broad because they are not limited in time or scope to the time period in question.

13. Defendants' agreement to produce any category of documents is not a representation that any such documents in that category actually exist and can be located through a reasonable search.

14. Defendants expressly preserve all objections it may have to the genuineness, authenticity, relevance, and/or admissibility of the information or documents sought by plaintiffs' Discovery Requests.

15. Defendants object to plaintiffs' requests for information in possession of "other persons, firms, partnerships, corporations or associations," that are not subject to the defendants' control. Defendants further object to plaintiffs' requests for information by "employees, contractors and agents of the Wisconsin State Senate and the Wisconsin State Assembly." These requests for information are overbroad and defendants' answers herein are based on information possessed by the GAB and the named individuals in their official capacities.

## **INTERROGATORIES**

### **INTERROGATORY NO. 1:**

Please identify all of the individuals or entities with whom or with which you consulted or communicated regarding the Rule 26(a) submission you exchanged with plaintiffs' counsel on November 16, 2011—whether before, during or after the submission's preparation.

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**ANSWER:**

Defendants object to Interrogatory No. 1 to the extent it calls for information protected by the attorney client privilege, work product doctrine and/or the common or joint interest privilege. Defendants also object to the extent this Interrogatory seeks information that is not relevant to the subject matter of this action or to the claims or defenses of any party, are not reasonably calculated to lead to the discovery of admissible evidence, or otherwise outside the proper scope of discovery. Without waiving these objections and the foregoing General Objections, defendants state that their Rule 26(a) Disclosure was prepared with the advice and consultation of their counsel who investigated and drafted the November 16, 2011 Rule 26(a) Disclosure and subsequent amendment. Further answering, members of the GAB asked representatives at the Legislative Reference Bureau and Legislative Technology Services Bureau on or about November 14, 2011, whether they had been contacted about the defendants' Rule 26(a) Disclosure.

**INTERROGATORY NO. 2:**

Please identify all of the individuals or entities with whom or with which you consulted or communicated regarding the preparation of your "Defendants' Answer and Affirmative Defenses . . ." (the "Answer") that you filed on November 4, 2011. Identify, in addition, all of the individuals or entities with whom or with which you shared either: a) any draft of that Answer and/or b) a copy of that Answer once filed.

**ANSWER:**

Defendants object to Interrogatory No. 2 to the extent it calls for information protected by attorney client privilege work product doctrine and/or the common or joint interest privilege. Defendants also object to the extent this Interrogatory seeks information that is not relevant to the subject matter of this action or to the claims or

defenses of any party, are not reasonably calculated to lead to the discovery of admissible evidence, or otherwise outside the proper scope of discovery. Without waiving these objections and the foregoing General Objections, defendants state that their Answers were prepared with the advice and consultation of their counsel who investigated and drafted the November 4 and 25, 2011 pleadings. Further answering, defendants state that they have not shared drafts of GAB pleadings in this matter with third persons outside the GAB, other than their counsel. Further answering, defendants state that they have not shared a copy of the filed Answer with third persons outside the GAB, other than their counsel.

**INTERROGATORY NO. 3:**

Please identify all of the individuals with whom you have had communications about the possibility or necessity of testifying as a lay or expert witness at the trial of this matter.

**ANSWER:**

Defendants object to Interrogatory No. 3 to the extent it calls for information protected by the attorney client privilege work product doctrine and/or the common or joint interest privilege. Defendants also object to the extent this Interrogatory seeks information that is not relevant to the subject matter of this action or to the claims or defenses of any party, are not reasonably calculated to lead to the discovery of admissible evidence, or otherwise outside the proper scope of discovery. Without waiving these objections and the foregoing General Objections, defendants direct plaintiffs to their Amended Rule 26(a) Disclosure dated November 25, 2011 and future amendments, if any. Further answering, defendants will disclose the report(s) of their testifying expert(s) pursuant to the Scheduling Order in this case.

**INTERROGATORY NO. 4:**

Please identify all of the individuals, other than those employed at the Department of Justice, who have reviewed any draft materials of any kind connected with this litigation. If any of those individuals are members of the State Bar of Wisconsin, identify them along with the basis for the relationship between you and the individual.

**ANSWER:**

Defendants object to Interrogatory No. 4 because it calls for information protected by the attorney client privilege work product doctrine and/or the common or joint interest privilege. Defendants also object to the extent this Interrogatory seeks information that is not relevant to the subject matter of this action or to the claims or defenses of any party, are not reasonably calculated to lead to the discovery of admissible evidence, or otherwise outside the proper scope of discovery. Without waiving these objections and the foregoing General Objections, defendants state that they have not shared drafts of GAB pleadings in this matter with third persons outside the GAB, other than their counsel.

**INTERROGATORY NO. 5:**

Please identify all of the "individuals" to which you refer anonymously in paragraphs 2 through 10 of Defendants' Disclosures.

**ANSWER:**

Defendants object to Interrogatory No. 5 to the extent it seeks information subject to the attorney client privilege and work product doctrine. Defendants further object to the term "anonymously" on the grounds this request mischaracterizes defendants' original initial Rule 26(a) Disclosure dated November 16, 2011. To the extent this request seeks information beyond the information located in Defendants' Amended Rule 26(a)

Disclosure, defendants object to the vague and overbroad nature of this request. Without waiving these objections and the foregoing General Objections, defendants state that additional names were added to the Defendants' Amended Rule 26(a) Disclosure, to-wit: Adam Foltz, Tad Ottman and Joseph Handrick (paragraphs 2-9). Additionally, the defendants identified Professor Ronald Keith Gaddie (factual and expert testimony).

**INTERROGATORY NO. 6:**

Please identify all of the "experts" to which you refer anonymously in paragraphs 11 and 12 of Defendants' Disclosures.

**ANSWER:**

Defendants object to Interrogatory No. 6 to the extent it seeks information subject to the attorney client privilege and work product protection. Defendants further object to the term "anonymously" on the grounds this Request mischaracterizes defendants' original initial Rule 26(a) Disclosure dated November 16, 2011. Without waiving these objections and the foregoing General Objections, defendants state their testifying expert report(s) will be exchanged with plaintiffs pursuant to the Scheduling Order.

**INTERROGATORY NO. 7:**

Please identify and describe the "state and/or governmental interests" that, in your Answer you maintain are "directly advance[d]" by the new redistricting law and describe how they are advanced.

**ANSWER:**

Defendants object to Interrogatory No. 7 to the extent it inappropriately calls for a legal analysis or explanation of the legal basis for defendants' defenses to plaintiffs' claims. Defendants further object as the request fails to specifically identify where the

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quoted phrases are located in defendants' Answer to Plaintiff's First Amended Complaint. Defendants reserve the right to assert any and all interests at trial and that the Court, itself, is entitled to rely upon any interests that it identifies. The redistricting Acts are presumed to be valid, *Davis v. Grover*, 166 Wis. 2d 501, 520, 480 N.W.2d 460 (1992), and the burden is on the plaintiffs—as challengers—to prove beyond a reasonable doubt that they are unconstitutional. *State v. Chvala*, 2004 WI App 53, ¶ 9, 271 Wis. 2d 115, 678 N.W.2d 880; *State ex rel. Hammermill Paper Co. v. La Plante*, 58 Wis. 2d 32, 46, 205 N.W.2d 784 (1973). It is not enough that a challenger establish doubt as to an act's constitutionality nor is it sufficient that a challenger establish the unconstitutionality of an act is a possibility. *Id.* If any doubt exists, it must be resolved in favor of constitutionality. *State ex rel. Thomson v. Giessel*, 265 Wis. 558, 564, 61 N.W.2d 903 (1953). Finally, the appropriate standard is not that the present redistricting maps are the best maps possible or that they serve the state or governmental interests better than any alternative. *Prosser v. Wisconsin Elections Board*, 793 F. Supp. 859, 867 (W.D. Wis. 1992). “The Constitution does not require that the Legislature adopt the best plan ‘that any ingenious mind can devise.’” *Mayor of Cambridge v. Sec. of Commonwealth*, 765 N.E.2d 749, 756 (Mass. 2002) (quoting *Atty. Gen. v. Sec. of the Commonwealth*, 27 N.E.2d 265, 269 (Mass. 1940)).

Without waiving these objections and the foregoing General Objections, defendants state that the state and/or governmental interests advanced by 2011 Wisconsin Acts 43 and 44 consist of having redistricting maps that comply with state and federal constitutional requirements.

**INTERROGATORY NO. 8:**

Please identify all of the individuals or entities with whom or with which you consulted or communicated regarding the preparation of your responses to these interrogatories and document requests.

**ANSWER:**

Defendants object to Interrogatory No. 8 to the extent it seeks information subject to the attorney client privilege and work product doctrine. Defendants also object to the extent this Interrogatory seeks information that is not relevant to the subject matter of this action or to the claims or defenses of any party, are not reasonably calculated to lead to the discovery of admissible evidence, or otherwise outside the proper scope of discovery. Without waiving this objection and the foregoing General Objections, defendants state these responses were prepared with the assistance and advice of counsel based on an investigation and interviews conducted by defendants' counsel.

**INTERROGATORY NO. 9:**

Please identify all facts that support the Defendant's assertion that the 2011 maps are constitutional.

**ANSWER:**

Defendants object to Interrogatory No. 9 to the extent it inappropriately calls for a legal analysis or explanation of the legal basis for defendants' defenses to plaintiffs' claims. Defendants further object to the use of the phrase "2011 maps" as undefined and vague, but for purpose of answering this Interrogatory, the defendants will understand "2011 maps" as referring to 2011 Wisconsin Acts 43 and 44. Defendants further object to plaintiffs' request for "all" facts as overbroad. Defendants further object to the extent this request seeks information and facts subject to expert opinion, which shall be

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provided pursuant to the Scheduling Order. The redistricting Acts are presumed to be valid, *Davis v. Grover*, 166 Wis. 2d 501, 520, 480 N.W.2d 460 (1992), and the burden is on the plaintiffs—as challengers—to prove beyond a reasonable doubt that they are unconstitutional. *State v. Chvala*, 2004 WI App 53, ¶ 9, 271 Wis. 2d 115, 678 N.W.2d 880; *State ex rel. Hammermill Paper Co. v. La Plante*, 58 Wis. 2d 32, 46, 205 N.W.2d 784 (1973). It is not enough that a challenger establish doubt as to an act's constitutionality nor is it sufficient that a challenger establish the unconstitutionality of an act is a possibility. *Id.* If any doubt exists, it must be resolved in favor of constitutionality. *State ex rel. Thomson v. Giessel*, 265 Wis. 558, 564, 61 N.W.2d 903 (1953).

Subject to and without waiving these objections and the foregoing General Objections, defendants state the following facts and data demonstrate the constitutionality of the legislative districts created by Acts 43 and 44: the population of Wisconsin as recorded in the decennial census conducted by the federal government from 1970 to present; the legislative and congressional maps created by the legislature and federal court panels since 1970 (including the facts and data underlying and contained therein); data held by the Legislative Reference Bureau and Legislative Technology Services Bureau; to the extent that the Court determines that legislative intent is relevant to determining the constitutionality of the maps, legislative intent; and all facts and data used or calculated by experts in this case. Further answering, expert analysis of the previous and following enumerated facts and data, as well as other facts as evaluated by defendants' expert(s) as deemed necessary, will demonstrate the constitutionality of the 2011 legislative districts: historical election data from Wisconsin, delayed voting data

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from Wisconsin and other states; and calculations and other analyses of compactness, contiguity, core retention, political pairings and other categories as determined by expert analysis. Defendants' investigation is ongoing and defendants reserve the right to disclose additional facts and data as it becomes known or relevant to this action.

## **REQUESTS FOR PRODUCTION**

### **REQUEST FOR PRODUCTION NO. 1:**

Please produce any and all documents that defendants intend to introduce at the trial of this matter, scheduled for February 21 through 24, 2012, or whenever held.

### **RESPONSE:**

Subject to and without waiving the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control that defendants reasonably understand to be responsive to this request. No decisions have yet been made as to what will or will not be used as evidence at trial.

Defendants investigation is ongoing and reserves the right to identify and disclose additional data and documents as they become known or relevant to this action.

### **REQUEST FOR PRODUCTION NO. 2:**

Please produce any and all documents identified in response or in connection with the preparation of the responses to the Interrogatories above.

### **RESPONSE:**

Defendants object to Request No. 2 to the extent it calls for documents protected by the attorney client privilege, the attorney work product doctrine or any other applicable privilege or doctrine. Subject to and without waiving these objections and the  
~~foregoing General Objections, defendants will produce relevant, non-privileged~~

documents in its possession, custody or control that defendants reasonably understand to be responsive to this request.

**REQUEST FOR PRODUCTION NO. 3:**

Please produce the "documents," including the "expert reports" and other materials that you identified in the Defendants' Disclosures and that you admit you already have in your actual, possession, custody and control.

**RESPONSE:**

Defendants object to Request No. 3 to the extent it calls for documents protected by the attorney client privilege, the attorney work product doctrine or any other applicable privilege or doctrine. Defendants further object to the extent this Request seeks documents not in the possession, custody or control of defendants. Defendants further object to the mischaracterization in this request, as defendants never "admitted" that "expert reports" exist in their possession or custody. Subject to and without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control that defendants reasonably understand to be responsive to this request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

**REQUEST FOR PRODUCTION NO. 4:**

Please produce any and all documents related to retaining the core population of Wisconsin's prior (2002) districts, including but not limited to any data or analyses used by the legislature and/or its various bodies, or those individuals on the legislature's behalf to draw the 2011 redistricting maps enacted as Acts 43 and 44.

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**RESPONSE:**

Defendants object to Request No. 4 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

**REQUEST FOR PRODUCTION NO. 5:**

Please produce any and all documents related to maintaining communities of interest, including but not limited to any data or analyses, used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

**RESPONSE:**

Defendants object to Request No. 5 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

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**REQUEST FOR PRODUCTION NO. 6:**

Please produce any and all documents related to shifting populations from even to odd state senate districts, including but not limited to any data or analyses, that were used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

**RESPONSE:**

Defendants object to Request No. 6 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

**REQUEST FOR PRODUCTION NO. 7:**

Please produce any and all documents related to establishing compact districts, including but not limited to any data or analyses, that were used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

**RESPONSE:**

Defendants object to Request No. 7 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this

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request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

**REQUEST FOR PRODUCTION NO. 8:**

Please produce any and all documents related to minority voters, including but not limited to any data or analyses, that were used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

**RESPONSE:**

Defendants object to Request No. 8 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

**REQUEST FOR PRODUCTION NO. 9:**

Please produce any and all documents related to the preservation of political subdivision boundaries (e.g., counties, municipalities, wards and district lines drawn by local political units), including but not limited to any data or analyses, that were used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

**RESPONSE:**

Defendants object to Request No. 9 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to

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the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

**REQUEST FOR PRODUCTION NO. 10:**

Please produce any and all documents related to the partisan make-up and effect, including but not limited to any data or analyses, that were used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

**RESPONSE:**

Defendants object to Request No. 10 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

**REQUEST FOR PRODUCTION NO. 11:**

Please produce any and all documents related to the involvement of Democratic legislators in drawing the 2011 redistricting maps enacted as Acts 43 and 44.

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**RESPONSE:**

Defendants object to Request No. 11 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request.

**REQUEST FOR PRODUCTION NO. 12:**

Please produce any and all documents related to census data from 1970 through 2010, including but not limited to, any documents detailing population growth and changes from 1970 through 2010.

**RESPONSE:**

Defendants object to Request No. 12 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

**REQUEST FOR PRODUCTION NO. 13:**

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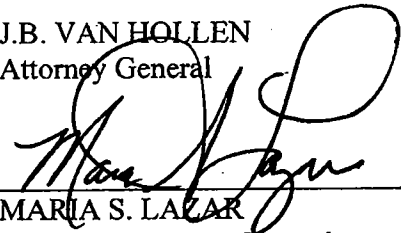
~~Please produce any and all documents used by the legislature to create the 2011 districts enacted as Acts 43 and 44.~~

**RESPONSE:**

Defendants object to Request No. 13 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request.

Dated this 12th day of December, 2011.

J.B. VAN HOLLEN  
Attorney General

  
\_\_\_\_\_  
MARIA S. LAZAR  
Assistant Attorney General  
State Bar #1017150

Attorneys for Defendants

Wisconsin Department of Justice  
Post Office Box 7857  
Madison, Wisconsin 53707-7857  
(608) 267-3519  
(608) 267-2223 (fax)  
*lazarms@doj.state.wi.us*

Reinhart Boerner Van Deuren S.C.

PATRICK J. HODAN  
State Bar #1001233

DANIEL KELLY  
State Bar #1001941

COLLEEN E. FIELKOW  
State Bar #1038437

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Attorneys for Defendants

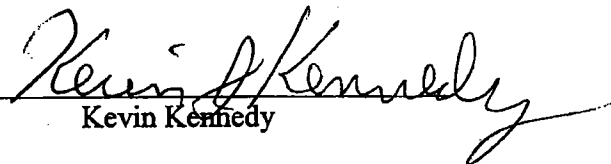
Reinhart Boerner Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
(414) 298-1000  
(414) 298-8097 (fax)  
[phodan@reinhartlaw.com](mailto:phodan@reinhartlaw.com)  
[dkelly@reinhartlaw.com](mailto:dkelly@reinhartlaw.com)  
[cfielkow@reinhartlaw.com](mailto:cfielkow@reinhartlaw.com)

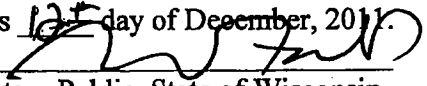
VERIFICATION OF INTERROGATORY ANSWERS

STATE OF WISCONSIN     )  
                                      ) SS  
DANE COUNTY             )

Kevin Kennedy, being first duly sworn on oath, deposes and says:

That he has read this document, and knows its contents; that these responses were prepared with the assistance and advice of counsel and employees and agents of defendants, upon whose advice and information he has relied; that the responses set forth above, subject to inadvertent or undiscovered errors, are based on and limited by the records and information still in existence, and thus far discovered in the course of the preparation of these responses; that he and defendants consequently reserve the right to make any changes in the responses if it appears at any time that omissions have been made or more information is available; that subject to these limitations these responses are complete to the best of his knowledge, information and belief.

By:   
Kevin Kennedy

Subscribed and sworn to before me  
this 12<sup>th</sup> day of December, 2011.  
  
Notary Public, State of Wisconsin  
My Commission perman

# **EXHIBIT 13**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

---

ALVIN BALDUS, CINDY BARBERA, CARLENE  
BECHEN, RONALD BIENDSEIL, RON BOONE, VERA  
BOONE, ELVIRA BUMPUS, EVANJELINA  
CLEEREMAN, SHEILA COCHRAN, LESLIE W.  
DAVIS III, BRETT ECKSTEIN, MAXINE HOUGH,  
CLARENCE JOHNSON, RICHARD KRESBACH,  
RICHARD LANGE, GLADYS MANZANET,  
ROCHELLE MOORE, AMY RISSEEUW, JUDY  
ROBSON, GLORIA ROGERS, JEANNE SANCHEZ-  
BELL, CECELIA SCHLIEPP, TRAVIS THYSSEN,

Plaintiffs,

TAMMY BALDWIN, GWENDOLYNNE MOORE  
and RONALD KIND,

Intervenor-Plaintiffs,

v.

Members of the Wisconsin Government Accountability  
Board, each only in his official capacity:  
MICHAEL BRENNAN, DAVID DEININGER, GERALD  
NICHOL, THOMAS CANE, THOMAS BARLAND, and  
TIMOTHY VOCKE, and KEVIN KENNEDY, Director  
and General Counsel  
for the Wisconsin Government Accountability Board,

Defendants,

F. JAMES SENSENBRENNER, JR., THOMAS E. PETRI,  
PAUL D. RYAN, JR., REID J. RIBBLE,  
and SEAN P. DUFFY,

Intervenor-Defendants.

(caption continued on next page)

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**PLAINTIFFS' SECOND SET OF INTERROGATORIES  
AND SECOND REQUEST FOR PRODUCTION OF DOCUMENTS  
TO DEFENDANTS**

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Civil Action  
File No. 11-CV-562

Three-judge panel  
28 U.S.C. § 2284

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VOCES DE LA FRONTERA, INC., RAMIRO VARA,  
OLGA WARA, JOSE PEREZ, and ERICA RAMIREZ,

Plaintiffs,

v.

Case No. 11-CV-1011  
JPS-DPW-RMD

Members of the Wisconsin Government Accountability  
Board, each only in his official capacity:  
MICHAEL BRENNAN, DAVID DEININGER, GERALD  
NICHOL, THOMAS CANE, THOMAS BARLAND, and  
TIMOTHY VOCKE, and KEVIN KENNEDY, Director  
and General Counsel for the Wisconsin Government  
Accountability Board,

Defendants.

---

TO: Maria S. Lazar  
Assistant Attorney General  
Wisconsin Department of Justice  
17 West Main Street  
P.O. Box 7857  
Madison, Wisconsin 53701-7857

Patrick J. Hodan  
Daniel Kelly  
Colleen Fielkow  
Reinhart Boerner Van Deuren s.c.  
22 East Mifflin Street, Suite 600  
Madison, WI 53703

### DEFINITIONS

1. "You" and "your" means defendants individually and as a group, and all other persons acting on behalf of or in concert with defendants, including, but not limited to, attorneys, investigators, employees, or agents.
2. "In your possession, custody or control" means all documents that are in the actual or constructive possession, custody or control of any of the defendants, their agents, employees, officers and all other persons acting on its or their behalf.
3. "Communication," "document," "to identify," and "person" are defined as provided in Civil L.R. 26(d)(2).

4. "Implementation" has the same meaning as the word "implementation" used repeatedly by you in Defendants' Amended Initial Rule 26(a) Disclosures.

### **INTERROGATORIES**

PLEASE TAKE NOTICE that plaintiffs, by their attorneys, Godfrey & Kahn, S.C., pursuant to Fed. R. Civ. P. 33 and the Court's Scheduling and Discovery Order dated November 14, 2011, hereby demand that defendants make full answer in writing under oath to the following questions within twenty (20) days after service of these interrogatories—that is, on or before February 1, 2012.

### **INSTRUCTIONS**

1. Answer each interrogatory separately and fully in writing under oath, unless it is objected to, in which event the reasons for objections must be stated in lieu of an answer.
2. An evasive or incomplete answer shall be considered a failure to answer under Fed. R. Civ. P. 33(b)(3).
3. You are under a continuing duty to seasonably supplement your response with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters. Furthermore, you are under a similar duty to correct any incorrect response when you have later learned that it is incorrect.
4. For purposes of these interrogatories, when you are asked to identify a person, identify the person's full name, age, telephone number, and current residential and business addresses, together with a statement as to their relationship with you, if any, and if not presently related, a statement as to whether any such relationship ever existed and the inclusive dates of it.
5. In answering the interrogatories, you are required to furnish information that is available to you or available subject to reasonable inquiry, including information in possession of

other persons, firms, partnerships, corporations, or associations directly or indirectly employed by or connected with you or anyone else otherwise subject to your control. This includes employees, contractors, and agents of the Wisconsin State Senate and the Wisconsin State Assembly.

**INTERROGATORY NO. 10:**

When and in what manner did you become aware of the “anomalies” described in the January 10, 2012 news article in the Wisconsin State Journal with the headline “Errors in redistricting process could affect thousands of voters”<sup>1</sup> and, apparently, described in at least one Government Accountability Board (“GAB”) memorandum?

**INTERROGATORY NO. 11:**

Identify every person with whom any GAB member or employee has communicated, verbally or in writing, about the “anomalies” referenced in Interrogatory No. 10 and describe the circumstances and the substance of the communication. This includes but is not limited to any local government officials with responsibility for voter registration or voting in any election.

**INTERROGATORY NO. 12:**

Explain how, if at all, the “anomalies” affect the population variations from precise equality reflected in the districts, whether legislative or Congressional, embodied in Acts 43 and 44.

**INTERROGATORY NO. 13:**

Identify every person who participated in the planning, development, negotiation, drawing, revision, redrawing, or discussion of the districts and maps codified in Wisconsin

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<sup>1</sup> See [http://host.madison.com/wsj/news/local/govt-and-politics/errors-in-redistricting-process-could-affect-thousands-of-voters/article\\_04776e4a-3bf8-11e1-9d51-0019bb2963f4.html](http://host.madison.com/wsj/news/local/govt-and-politics/errors-in-redistricting-process-could-affect-thousands-of-voters/article_04776e4a-3bf8-11e1-9d51-0019bb2963f4.html).

Acts 43 or 44 or any other draft, potential, or proposed redistricting plan. This includes but is not limited to the "implementation" of Act 43 and 44.

**INTERROGATORY NO. 14:**

Identify every person who was consulted about, or received information concerning, the districts and maps codified in Wisconsin Acts 43 or 44, or any other draft, potential, or proposed redistricting plan, before the proposed boundaries were released to the public on July 8, 2011.

**INTERROGATORY NO. 15:**

Identify every person with whom any GAB member or employee has communicated, verbally or in writing, about the planning, development, negotiation, drawing, revision, redrawing, or discussion of the districts and maps codified in Wisconsin Acts 43 or 44 or any other draft, potential, or proposed redistricting plan. This includes but is not limited to the "implementation" of Act 43 and 44.

**INTERROGATORY NO. 16:**

In Defendants' Amended Initial Rule 26(a) Disclosures, paragraphs 9 through 19, you describe individuals who were "involved" in the redistricting process or "assisted" with it. Please identify any individuals (other than Messrs. Foltz, Ottman and Handrick) who fit the descriptions provided in those paragraphs by name, address, title, and responsibilities, regardless of whether or not you may use discoverable information from those individuals to support your defenses.

**REQUESTS FOR PRODUCTION OF DOCUMENTS**

PLEASE TAKE NOTICE that plaintiffs, by their attorneys, Godfrey & Kahn, S.C., pursuant to Fed. R. Civ. P. 34 and the Court's Scheduling and Discovery Order dated November 14, 2011, hereby demand that defendants, within twenty (20) days after service of this

request—that is, on or before February 1, 2012—permit plaintiffs' attorneys to inspect and copy the following or, in the alternative, produce legible copies at the office of plaintiffs' attorneys, Godfrey & Kahn, S.C., One East Main Street, Suite 500, Madison, Wisconsin.

### INSTRUCTIONS

1. Respond to each document request fully, unless it is objected to, in which event the reasons for objections must be stated in lieu of providing responsive documents.
2. An evasive or incomplete response shall be considered a failure to respond under Fed. R. Civ. P. 34(b)(2)(A) and (B).
3. You are under a continuing duty to correct any incorrect or incomplete response as soon as you learn that it is incorrect or incomplete.
4. In responding to these document requests, you are required to furnish information that is available to you or subject to your reasonable inquiry, including information in possession of other persons, firms, partnerships, corporations, or associations directly or indirectly employed by or connected with you or anyone else otherwise subject to your control. This includes employees, contractors and agents of the Wisconsin State Senate and the Wisconsin State Assembly.
5. If you refuse to produce a requested document, explain the grounds for the refusal and identify the document by describing its nature (*e.g.*, memorandum, letter, notes), date, author(s), recipient(s), and subject matter.
6. If any requested document is withheld based on either attorney-client privilege or the attorney work product doctrine or both, a privilege and work product log that complies with the Federal Rules of Civil Procedure related to discovery requests, specifically identifying the attorney or attorneys involved and the document, shall accompany the responses to these requests.

**REQUEST FOR PRODUCTION NO. 14:**

To the extent not already produced, provide every document of any kind that you intend to introduce at trial.

**REQUEST FOR PRODUCTION NO. 15:**

Provide every document that discusses, describes, or relates to the “anomalies” referred to in Interrogatory Nos. 10 and 11.

**REQUEST FOR PRODUCTION NO. 16:**

To the extent not already produced, provide every document, related in any way to Act 43 or 44 and their development, enactment, or implementation, sent to or received from the following individuals by the GAB, its members or employees: Elisa Alfonso, Adam Foltz, Keith Gaddie, Joseph Handrick, Mark Jefferson, Scott Jensen, Eric McLeod, Tad Ottman, Gerard Randall, Alonzo Rivas, Prospektre Rivera, Jesus (Zeus) Rodriguez, Robert Spindell, Jim Troupis, and Mike Wild.

**REQUEST FOR PRODUCTION NO. 17:**

To the extent not already produced, provide every document, including but not limited to e-mail, concerning any analyses, data, plans, procedures, and/or reports reviewed, relied upon, considered, or prepared by—or available to—any persons involved in the planning, development, negotiation, drawing, revision, redrawing, or discussion of the districts and maps codified in Wisconsin Acts 43 or 44 or any other draft, potential, or proposed redistricting plan.

**REQUEST FOR PRODUCTION NO. 18:**

To the extent not already produced, provide every document, including but not limited to e-mail, concerning the objectives and/or motives of state lawmakers and members of Congress, and of their staff, consultants, and experts, related to the planning, development, negotiation,

drawing, revision, redrawing, or discussion of the districts and maps codified in Wisconsin Acts 43 or 44 or any other draft, potential, or proposed redistricting plan.

**REQUEST FOR PRODUCTION NO. 19:**

To the extent not already produced, provide every document, including but not limited to e-mail, concerning the identities of persons who participated in the planning, development, negotiation, drawing, revision, redrawing, or discussion of the districts and maps codified in Wisconsin Acts 43 or 44 or any other draft, potential, or proposed redistricting plan.

**REQUEST FOR PRODUCTION NO. 20:**

To the extent not already produced, provide every document, including but not limited to e-mail, concerning the identities, contractual agreements, and compensation of any experts and/or consultants (including attorneys retained by contract) retained to assist in the planning, development, negotiation, drawing, revision, redrawing, or discussion of the districts and maps codified in Wisconsin Acts 43 or 44 or any other draft, potential, or proposed redistricting plan.

**REQUEST FOR PRODUCTION NO. 21:**

To the extent not already produced, provide every document, including but not limited to e-mail, concerning the objective facts referenced, used, or relied upon by—or available to—any persons involved in the planning, development, negotiation, drawing, revision, redrawing, or discussion of the districts and maps codified in Wisconsin Acts 43 or 44 or any other draft, potential, or proposed redistricting plan.

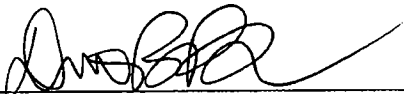
**REQUEST FOR PRODUCTION NO. 22:**

To the extent not already produced, provide all communications, including but not limited to e-mail, with any persons or entities concerning the redistricting process or the planning, development, negotiation, drawing, revision, redrawing, or discussion of the districts

and maps codified in Wisconsin Acts 43 or 44 or any other draft, potential, or proposed redistricting plan.

Dated: January 12, 2012.

GODFREY & KAHN, S.C.

By: 

Douglas M. Poland  
State Bar No. 1055189  
Dustin B. Brown  
State Bar No. 1086277  
One East Main Street, Suite 500  
P.O. Box 2719  
Madison, WI 53701-2719  
608-257-3911  
dpoland@gklaw.com  
dbrown@gklaw.com

*Attorneys for Plaintiffs*

7340171\_2

# **EXHIBIT 14**

January 14, 2012

**BY E-MAIL**

Maria S. Lazar  
Assistant Attorney General  
Wisconsin Department of Justice  
P.O. Box 7857  
Madison, WI 53707-7857  
lazarms@doj.state.wi.us

Patrick J. Hodan  
Daniel Kelly  
Reinhart Boerner Van Deuren s.c.  
1000 North Water Street, Suite 2100  
Milwaukee, WI 53202  
Phone: 414-298-8333  
phodan@reinhartlaw.com  
dkelly@reinhartlaw.com

*Baldus et al. v. Brennan et al.*

Dear Counsel:

We learned late yesterday of the existence of the attached memorandum, prepared by your client, the Government Accountability Board, on November 10, 2011. The memorandum directly addresses, among other things, the use of 2010 census data in the redistricting process that resulted in Acts 43 and 44, and concludes, in part, that “it is likely that the final districts will not precisely match those prescribed by Acts 43 and 44 because census blocks were attributed to incorrect municipalities.”

This memorandum was not disclosed in defendants’ Rule 26 disclosures or their supplemental disclosures. Nor was it produced to plaintiffs in response to the production requests that we served on you on November 22, 2011, which included the following requests, among others:

**DOCUMENT REQUEST NO. 4:**

Please produce any and all documents related to retaining the core population of Wisconsin’s prior (2002) districts, including but not limited to any data or analyses used by the legislature and/or its various bodies, or those individuals on the legislature’s behalf to draw the 2011 redistricting maps enacted as Acts 43 and 44.

DOCUMENT REQUEST NO. 6:

Please produce any and all documents related to shifting populations from even to odd state senate districts, including but not limited to any data or analyses, that were used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

DOCUMENT REQUEST NO. 12:

Please produce any and all documents related to census data from 1970 through 2010, including but not limited to, any documents detailing population growth and changes from 1970 through 2010.

Your client's memorandum of yesterday, January 13, 2012, in itself very significant, only serves to emphasize the importance and relevance of the November 10 memorandum.

Please explain why you did not identify or produce the GAB's November 10, 2011 memorandum, as well as all other related documents, in accordance with your obligations under Rule 26 and in response to plaintiffs' discovery requests.

Not only did you fail to produce the memorandum and related materials, you have not – even up to this day – informed the plaintiffs of the existence of problems with the census data and assignment of voters to legislative districts that, in the words used in the GAB's own November 10, 2011 memorandum, “directly impact the Government Accountability Board's (G.A.B.) Redistricting Initiative.” By failing to reveal even the existence of the problems identified in the GAB's November 10 memorandum, you have permitted expert witnesses for all parties to formulate, prepare, and tender opinions, which you knew would be presented to the Court for its consideration, without informing any of those experts that they were formulating opinions based on information that the GAB appears to have known was inaccurate as far back as November 10, 2011, if not earlier. We once again request that you provide us with all documents, data, and information in the GAB's possession, custody, and control, in accordance with the GAB's discovery obligations.

We would appreciate hearing from you, notwithstanding the holiday, by Monday morning. Absent an explanation, we anticipate seeking appropriate relief from the Court.

Maria Lazar  
Patrick Hodan  
January 14, 2012  
Page 3

Very truly yours,

GODFREY & KAHN, S.C.

*/s/ Douglas M. Poland*

Douglas M. Poland

Attachment

cc: P. Scott Hassett (by e-mail)  
Thomas L. Shriner, Jr. (by e-mail)  
Peter G. Earle (by e-mail)

7351852\_1

**Brandt, Karen J (15243)**

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**From:** ecfmaster@wied.uscourts.gov  
**Sent:** Monday, January 16, 2012 7:15 PM  
**To:** ecfmaster@wied.uscourts.gov  
**Subject:** Activity in Case 2:11-cv-00562-JPS-DPW-RMD Baldus et al v. Brennan et al Declaration

This is an automatic e-mail message generated by the CM/ECF system. Please **DO NOT RESPOND** to this e-mail because the mail box is unattended.

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

**United States District Court**

**Eastern District of Wisconsin**

**Notice of Electronic Filing**

The following transaction was entered by Poland, Douglas on 1/16/2012 at 7:15 PM CST and filed on 1/16/2012

**Case Name:** Baldus et al v. Brennan et al  
**Case Number:** 2:11-cv-00562-JPS-DPW-RMD  
**Filer:**  
**Document Number:** 113

**Docket Text:**

**DECLARATION of Douglas M. Poland in Support of Plaintiffs' Motion for an Emergency Hearing and Order to Show Cause and for Hearing on Defendants' Protective Order Motion . (Attachments: # (1) Exhibit 1 - January 13, 2012 GAB memorandum, # (2) Exhibit 2 - January 13, 2011 Journal Sentinel article, # (3) Exhibit 3 - November 10, 2011 GAB memorandum, # (4) Exhibit 4 - January 11, 2012 Wisconsin State Journal article, # (5) Exhibit 5 - January 11, 2012 Journal Sentinel article, # (6) Exhibit 6 - Plaintiffs' Second Supplemental rule 26(a) disclosures, # (7) Exhibit 7 - Defendants' initial disclosures, # (8) Exhibit 8 - Defendants' amended initial disclosures, # (9) Exhibit 9 - Letter dated November 29, 2011, # (10) Exhibit 10 - Letter dated December 5, 2011, # (11) Exhibit 11 - Plaintiffs' first set of discovery requests, # (12) Exhibit 12 - Defendants' answers to plaintiffs' first set of discovery requests, # (13) Exhibit 13 - Plaintiffs' second set of discovery requests, # (14) Exhibit 14 - Letter dated January 14, 2012)(Poland, Douglas)**

**2:11-cv-00562-JPS-DPW-RMD Notice has been electronically mailed to:**

Aaron H Kastens ahkastens@michaelbest.com, mlcrimmins@michaelbest.com

Brady C Williamson bwilliam@gklaw.com, agrote@gklaw.com, jschwartz@gklaw.com

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1001523647 [Date=1/16/2012] [FileNumber=1818439-2]  
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**Document description:**Exhibit 3 - November 10, 2011 GAB memorandum

**Original filename:**

**Electronic document Stamp:**

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**Document description:**Exhibit 4 - January 11, 2012 Wisconsin State Journal article

**Original filename:**

**Electronic document Stamp:**

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**Document description:**Exhibit 5 - January 11, 2012 Journal Sentinel article

**Original filename:**

**Electronic document Stamp:**

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**Document description:**Exhibit 6 - Plaintiffs' Second Supplemental rule 26(a) disclosures

**Original filename:**

**Electronic document Stamp:**

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**Document description:**Exhibit 7 - Defendants' initial disclosures

**Original filename:**

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1001523647 [Date=1/16/2012] [FileNumber=1818439-7]  
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**Document description:**Exhibit 8 - Defendants' amended initial disclosures

**Original filename:**

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1001523647 [Date=1/16/2012] [FileNumber=1818439-8]  
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**Document description:**Exhibit 9 - Letter dated November 29, 2011

**Original filename:**

**Electronic document Stamp:**

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**Document description:**Exhibit 10 - Letter dated December 5, 2011

**Original filename:**

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